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IMPLEMENTING THE FAMILY SUPPORT ACT OF 1988

HEARING

BEFORE THE

SUBCOMMITTEE ON
SOCIAL SECURITY AND FAMILY POLICY

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

MAY 15, 1989

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IMPLEMENTING THE FAMILY SUPPORT ACT OF 1988

MONDAY, MAY 15, 1989

U.S. SENATE,
SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:03 a.m. in room SD-215, Dirksen Senate Office Building, Hon. Daniel P. Moynihan (chairman of the subcommittee) presiding.

Also present: Senators Packwood and Chafee.

[The press release announcing the hearing follows:]

[Press Release No. H-23, May 1, 1989]

FINANCE SUBCOMMITTEE TO HOLD HEARING ON PROPOSED REGULATIONS TO IMPLEMENT THE FAMILY SUPPORT ACT

WASHINGTON, DC—Senator Daniel P. Moynihan, (D., New York), Chairman of the Senate Finance Subcommittee on Social Security and Family Policy, announced today that the Subcommittee will hold a hearing on proposed regulations to implement the Family Support Act of 1988, legislation enacted last year to overhaul the nation's welfare system. This is the first of a series of oversight hearings on implementation of the new legislation.

The hearing is scheduled for *Monday, May 15, 1989 at 10 a.m.* in Room SD-215 of the Dirksen Senate Office Building.

In announcing the hearing, Moynihan said, "In the 100th Congress, we made history. We passed the Family Support Act of 1988, the first overhaul of the nation's welfare program for poor families with children in half a century. President Reagan signed our bill into law on October 13, 1988."

The new law (P.L. 100-485) directed the Secretary of Health and Human Services to publish, within six months from date of enactment (by April 13, 1989), proposed regulations to implement the education, training and work provisions contained in Title II of the Act, the Job Opportunities and Basic Skills training program (JOBS).

Moynihan said, "Developing complex regulations is difficult under the best of circumstances. Doing so in the aftermath of an election, with the attendant changes in cabinet personnel, is even more daunting. It is with special pleasure, therefore, that we schedule a hearing to review these proposed regulations. Overcoming all obstacles, Secretary Sullivan and the HHS staff forwarded the proposed regulations to the Federal Register for publication on April 13, just as the law required. The regulations were published on April 18."

"We commend the Secretary and his staff for meeting the ambitious timetable set out in the law," Moynihan said. "We look forward to hearing the comments and recommendations of the Secretary, state and local officials, and interested organizations and individuals."

OPENING STATEMENT OF HON. DANIEL P. MOYNIHAN, A U.S. SENATOR FROM NEW YORK

Senator MOYNIHAN. A very good morning to our guests and our witnesses. I see the Under Secretary of Health and Human Services, which is a very welcome moment for us.

I believe, Ms. Horner, you are accompanied by Catherine Bertini, who is the Acting Assistant Secretary for Family Support. I would like to welcome you all.

I am going to take a moment to speak to the subject that brings us here, which is, in the first instance, the regulations that have been promulgated by the Department for the Family Support Act of 1988, which was adopted in the waning days of the last Congress.

This was the legislation that came under the rubric of welfare reform, for which we had, in one way or another, been working for some 20 years here in Washington, and without success until that time.

We are just beginning to take the full measure of what we are dealing with, and are also beginning to have a rather pronounced sense of the second-order and third-order effects of what we are dealing with. What we are dealing with is a breakdown of family structure in the United States. I don't want to use large words, but it does appear to be associated with a post-industrial structure of the economy and of relationships, to use as vague a term as that.

As we said when we began these hearings on the welfare legislation 2 years ago, we had become the first society in history in which the poorest group in the population was children, and not just a few children but a very great many, distributed across geography, and across class, and across ethnic lines.

The extent of this is only just beginning to be seen. We have no data. The United States Government withdrew from the subject about 25 years ago when it turned out to be sensitive, and HEW scandalously just dropped the subject. Knowing nothing about it required you to do nothing about it, and that is what they did—nothing. The initiative, when it came, came entirely from Congress; previously it had come entirely from the White House.

Our database has always been that of one-time surveys, of the kind the Census best does—at a particular moment, how many people are involved in this or that? How many are farmers, and how many people are widows, and such like.

We are learning to do some studies over time, which the statisticians call "longitudinal," as Ms. Horner well knows. And now we are beginning to get the first data on this subject and realize how significant it is.

I guess in 1981, I published the first estimates—which were pretty rough, but now have turned out not to be very bad—that, over time, 32 percent of American children would be on welfare. This means that after public schools, welfare is the single most important public program that children are affected by, even though welfare was thought to be a small program for a small group.

A new study by the Ford Foundation has just come out, which gives us a sense of what this incidence of children on welfare is. It certainly is rather powerful, and I quote:

"Forty-two percent of the white babies will live with a single mother by age 8, and most of these infants will experience a major spell of poverty during that time. Eighty-six percent of the black babies will live with a single mother by age 8, and most will be poor during most of that time." So, you have 42 percent of one group, and 86 percent of another.

Then, of course, there is the great problem of pregnancy in very early ages, which is: "By age 20, approximately 20 percent of white teenagers and 45 percent of black teenagers have been pregnant—one of the highest rates of pregnancy for teenagers in the developed world. . . .

The proportion of babies born out of wedlock to white girls between the ages of 15 and 19 rose from 6 percent in 1955 to 49 percent in 1986; for black girls, the proportion increased from 41 percent to 90 percent; for Hispanics, the current figure is 45 percent."

Those are data from the Ford Foundation, so you need not fear their ideological purity.

It is this point that I had in mind when I spoke about the term "welfare reform." We would say, 2 years ago, that the word "reform" had to be used with a certain minimum rigor. If you take your dictionary, the word "reform" means "to restore to an earlier good state." And we made the point that there was no "earlier good state" of welfare.

This subject began as a widows' pension in 1935. The typical recipient was described as "a West Virginia miner's widow," and the question of child support from the absent parent did not arise. The coal miner was dead, and the question of work for the widow did not arise, as women didn't work in coal mines, and there weren't jobs, and so forth.

Forty years went by, 30 years, and within 25 years we could see the system was dealing with an altogether different population, the population we have just described—heavily urban, young, and families that had never formed.

I have a table here of illegitimacy ratios for our country. There is no record of illegitimacy ratios this high. We divide them into Black and White, as good as any reason, I suppose, as part of the way we collect our data:

In Hartford, Connecticut, 57 percent of all White births are illegitimate. In New York City, The Bronx, which is a big city on its own, if it were a city on its own, 52 percent. Los Angeles, 37 percent. Looking at black rates of illegitimate births, we find Baltimore at 80 percent; St. Louis, 79.7, which rounds to 80 percent; Allentown, 78 percent.

Well, there are no such numbers in the history of American society—none. I will put this whole list in the record, as well as the State-wide ranking. I think it is helpful.

[The information appears in the appendix.]

Senator Moynihan. And the second-order effects begin to be felt. I make the point, insistently, that we have seen this coming, and we have done nothing about it. Now, a quarter-century ago I said this condition of family structure was coming, and the general response was, "No, it is not." Then it did, and now what?

In the manner in which you use analogies—you get pretty risky trying to use analogies, but if you use the analogy of "epidemic diseases," I think you are probably not all wrong. In the interval, we have seen a population exposed to certain kinds of biological assaults, the way slum populations were exposed to cholera, which wiped out whole sections of cities in the nineteenth century. We have had this incidence with crack/cocaine. If you think of it as a "virus," you certainly see a pattern: it appears in the Bahamas in 1983; it has no scientific origins; it is not a laboratory product; it just appears. It gets to New York by 1985, and it is in Washington by 1986.

And the press is filled with nothing but responses to the impact of this virus, this assault, on this population. I read this morning's Washington papers, New York papers, and there is nothing but stories of the hellish life in the housing projects that is the consequence of drugs. In the Washington Post: "S.E. Mother's Love Triumphs Over the Lure of Drugs"—let us hope it does. In the New York Times we read of a single mother, with her four children, from the Bronx, Mary Singleton, who says she knows two apartments in her building where people sell crack, but she doesn't dare tell—a 42-year-old single mother.

Again in the New York Times, we learn of a new program in Chicago. The article, entitled, "Trying to Reach Mothers to Give Babies Better Starts," reads: "Edith McAfee was more than 8 months pregnant before she went to a Chicago Public Health Clinic for prenatal care." Chicago has one of the highest infant mortality rates in the country. In 1987, there were 16.6 deaths for every 1,000 live births. And so, they have begun a prenatal campaign called "Beautiful Babies, Right from the Start," which offers pregnant women a coupon book with $600 in discounts on baby care goods if they go to a doctor. A similar program operates here in the District of Columbia.

Well, this is just a typical day's events. In Chicago, as I said earlier, the illegitimacy ratio is—well, it is not that high; it is only 76 percent, three-quarters of all children born.

Then, lastly, in this morning's press from New York City, is something which we have been saying and which I think I want to repeat. If the heroin epidemic of the sixties helped lead to the single-parent family, the crack/cocaine epidemic will lead to the no-parent child. The distribution of cocaine use is profoundly different from that of heroin use. Heroin use was 4:1, male:female. With cocaine, the ratio is even. Indeed, in hospital admissions in New York City, a majority of the young adults, admitted for drug use, are female.

We read in the New York Times this morning of the proposals by the head of the Teachers Union, Mrs. Sandra Feldman, that the City begin boarding schools for children of the very poor. Others said there should be kibbutzes, where teenage mothers with drug habits can live with their children.

[The newspaper articles can be found in the appendix.]

Senator **Moynihan**. And this is all coming. These are all second-order effects of that first-order breakdown of a social structure—the family—which we talked about last year. We passed legislation last year, which we are going to be talking today.

No one was more indefatigable and determined that this should be done than my dear friend, our former Chairman, our Chairman-

Emeritus, Once and Future Chairman, Senator Packwood. And we welcome you this morning.

[The prepared statement of Senator Moynihan appears in the appendix.]

OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM OREGON

Senator PACKWOOD. Actually, I came to talk to you about another matter, but I like that "future Chairman." [Laughter.]

I have no comment, Mr. Chairman, but if I might have just 30 seconds of your ear before you start asking questions on another subject?

Senator MOYNIHAN. Sure. We will stand in recess for 30 seconds. Governor Castle can't be here until 2:00, so we will use his time.

[Whereupon, at 10:19 a.m., the hearing was recessed.]

[AFTER RECESS]

Senator MOYNIHAN. Thank you.

Now, to get on with our morning, I remarked that Governor Castle, by a long-standing "apprehension," if you want to put it that way, is going to have to be here at 2:00 p.m.

Mr. Cesar Perales is not here. Bad weather grounded flights from New York this morning. He could have come down last night but chose not to, so he won't appear, but we will take his testimony and include it in the record as if read.

[Mr. Perales' prepared statement appears in the appendix.]

Senator MOYNIHAN. Ms. Horner, we are very happy to welcome you, and we would like to hear your testimony, forthwith.

STATEMENT OF HON. CONSTANCE HORNER, UNDER SECRETARY, AND CATHERINE BERTINI, ACTING ASSISTANT SECRETARY FOR FAMILY SUPPORT, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY ROBERT HARRIS, DEPUTY DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, HHS

Ms. HORNER. Thank you, Mr. Chairman.

May I say, before beginning, that I have had the edification of observing your efforts on this subject over the decades—I am sort of shocked to discover that it has, indeed, now been decades—and I use the word "edification" advisedly. I would like to express to you something that I think I referred to in my confirmation testimony a few weeks back, that we are very grateful to you for having had the courage and the persistence on this issue over those decades, to bring something useful to fruition in law, finally.

People are often skeptical about the utility of law in the face of need for massive change in cultural outlook and social circumstance—more massive, one might think, than any law could fully reach. But I think we have all seen the utility of law, especially when combined with law as a vehicle for conversations which could not occur without the law, social conversations we can have within the nation based on the law, which can help people come to conclusions which will bring about change.

I think this law is such a law, and I am personally grateful to you for the opportunity this law affords me to participate in that conversation.

Senator MOYNIHAN. Thank you. That is a nice phrase, "social conversation," and that is indeed what we are involved in.

Ms. HORNER. I welcome this opportunity.

Accompanying me is Catherine Bertini, Acting Assistant Secretary for Family Support.

I would like to summarize my comments, if I may, and submit my formal testimony for the record.

Senator MOYNIHAN. Sure.

We welcome you, Ms. Bertini.

Ms. BERTINI. Thank you.

Ms. HORNER. Seven months ago, Congress enacted the Family Support Act, a significant step in helping the nation's welfare families reduce their dependence on government and achieve economic independence. This Act embodies a new consensus that the well-being of children depends not only on meeting their material needs but also on the parents' ability to become self-sufficient.

One of the key changes made by the legislation to achieve this goal was the creation of a new program of education, work, and training activities for welfare recipients—the JOBS program.

The Act also strengthens the child-support enforcement program, addressing the injustice of parental failure to assume responsibility for their children's support. But the focus of this hearing is on the JOBS program, and I will limit my testimony, therefore, to it.

We have undertaken a myriad of new projects and activities.

Senator MOYNIHAN. Could I just interrupt? I am sorry.

Ms. HORNER. Yes.

Senator MOYNIHAN. Don't the regulations address the question of child support?

Ms. HORNER. Yes, they do, Mr. Chairman. I understand that your interest today is in the education and training component.

Senator MOYNIHAN. My interest is in both, and you can talk about both.

Ms. HORNER. All right. That is fine. And, indeed, we might submit a supplemental written testimony, if we may, to address that aspect.

Senator MOYNIHAN. Would you? Because the Congress thought child support enforcement to be at least as important as anything else in the Family Support Act, and it was title I of our legislation.

[The information requested follows:]

STATEMENT OF CONSTANCE HORNER

Congress and the Administration placed renewed emphasis on improving programs designed to support family needs and foster family independence with the passage of the Family Support Act of 1988. This legislation represents a significant step in helping single-parent families achieve and maintain self-sufficiency. Just as the Child Support Enforcement Amendments of 1984 set the tone for the past few years, the passage of the Family Support Act of 1988 will set the direction of the program for the years ahead.

The Child Support Enforcement Amendments of 1984 gave States the tools to help single-parent families maintain their stability and financial independence. Through such techniques as income withholding, expedited processes, the use of property liens, consumer credit agency reporting and income tax refund offset, State child support enforcement agencies are better able to pursue support on behalf of children and their custodial parents.

The Family Support Act builds on the progress made through implementation of the 1984 Amendments. Major provisions of the Family Support Act pertaining to the child support enforcement program are mandatory use of guidelines in setting and modifying support orders, periodic review and update of certain support orders, strengthening of paternity establishment requirements, imposition of immediate wage withholding at the time a child support order is established, imposition of national standards for providing services and automation in all States by October 1, 1995.

Since the October 13, 1988 enactment of the Family Support Act, the Office of Child Support Enforcement has met each of the statutory time frames for administrative action. Accomplishments to date include:

- An agreement signed on January 23, 1989 between the Departments of Labor and HHS to allow prompt access to wage and unemployment compensation information (INTERNET) for child support purposes;
- Proposed regulations, after consultation with an advisory committee, on prompt response to service requests and prompt distribution of child support collections published in the Federal Register on April 1, 1989;
- Demonstration grants for testing model procedures for review and modification of child support amounts awarded on April 1, 1989 to Delaware, Colorado, Florida, and Illinois; and
- Guidance issued to the States on reporting baseline paternity establishment data to be used in measuring State compliance with paternity establishment standards in the Family Support Act.

While much has been accomplished, more remains to be done. Proposed regulations for implementing revisions to the $50 disregard, requiring that State guidelines be used as a rebuttable presumption of support levels, requiring mandatory genetic testing in contested paternity establishment cases upon request of any party, and the increased federal matching for the laboratory costs of paternity establishment until age 18 are in the clearance process and should be published in the Federal Register shortly. Also, proposed regulations for implementing immediate wage withholding, periodic review and modification of orders, monthly notice to the custodial parent of child support collections, and automated tracking and monitoring systems are in preparation. Although many improvements have occurred and collections continue to set new records every year, the implementation of the Family Support Act of 1988 will assure continued program success as we strive toward the goal of routine and regular parental support for our Nation's children.

Ms. HORNER. And, Mr. Chairman, I believe that is the perspective that Secretary Sullivan brings to bear upon the implementation of this Act, also.

Senator MOYNIHAN. Good to hear.

Ms. HORNER. One of his very strongest priorities is strengthening of the family, and the child support enforcement component is a very strong contributor to that goal.

Senator MOYNIHAN. Good.

Ms. HORNER. I would like to share with you some of the highlights of our undertakings in recent months, the culmination of which was the publication of the JOBS regulations, as required by the statute.

As we undertook the task of writing regulations in support of the Act, we believed very firmly that the one way to have a regulation of high quality was to involve, early in the process, the key departments, State and local agencies, public interest groups, and other organizations that help or could help the disadvantaged to become self-sufficient. We began meetings and discussions soon after passage of the Act and continued contact throughout the development of the regulations. This is only the beginning of what I hope will be an ongoing involvement with all of these groups. You will find that the proposed regulations have benefited greatly from the contributions of these organizations.

We took what we learned from these discussions, combined them with what we understood to be the objectives of the JOBS program, as enacted, and the administration's position on issues such as child care and female responsibility, and established some key principles which guided the development of the entire regulation.

These principles were so influential in the writing of the regulations that I would like to briefly identify them today:

The first is that we must target resources on those hardest to serve, particularly among women with young children. Women and their children represent the overwhelming proportion of AFDC recipients, and within this group the ones most likely to remain on welfare for long periods of time are never-married mothers, who did not complete high school and who had their first child at a young age. Any program designed to reduce welfare dependency must emphasize services to this group of young women and their children.

Second, we must emphasize education, particularly literacy and remedial education. Basic education, which includes basic literacy, high school equivalency and remedial education, is one of the most important tools an individual needs to achieve self-sufficiency. Congress made basic education a mandatory requirement of the JOBS program. President Bush has stressed the need to improve basic education and literacy training. These must be key components of a JOBS program.

Third, we must provide training for jobs that exist; that is, training helpful to actual employment. Where education is not an appropriate vehicle for becoming self-sufficient, or where a woman is educated but needs additional training, then we are strongly urging States to focus resources on training and work activities that will prepare participants for employment that exists in the community.

Fourth, we must maximize use of existing resources, with extensive coordination at all levels. In order to have an effective program with sound education, training and work components that reach out to many, we realized very early that resources must be maximized through coordination of existing programs at all levels of government, and in concert with community-based volunteer and business organizations.

We have strongly urged State welfare agencies to meet regularly with their counterparts in education and training, to ensure that these providers are involved in the planning and delivery of the JOBS program at all levels.

Fifth, we must make the program available to as many recipients as possible. There are two key provisions in our proposed rules which clearly reflect this principle. They are the heart of the JOBS program as we envision statewide programs and meaningful participation requirements.

In keeping with legislative intent, our proposed rules encourage States to make the JOBS program as widely available as possible. Thus, we have required the JOBS program to be available in each subdivision of the State where it is feasible to do so, taking into account the number of prospective participants, the local economy, and other relevant factors.

Further, not only must the JOBS program be present in some form throughout the State, there must also be meaningful participation requirements. A number of States requested that individual States be allowed to define participation in components. We concluded that the measurement of participation rates should be consistent across States and have followed comments in the conference report that participation is intended to be significant.

Sixth, we must provide flexibility in program design for States. While we have required State-wide programs and meaningful participation requirements, we have provided States broad flexibility in determining the types of services they offer anywhere in the State.

Further, while the State IV-A agency may not delegate functions involving discretion in the administration of the program, we have provided broad contracting authority for a wide range of activities.

Seventh, we must encourage targeting of program resources on services, not administration. Our proposed rules build in incentives for States to focus their efforts on program activities rather then administrative activities.

Eighth, we must provide women with choices of child care providers within State fiscal constraints. In order for individuals to be able to participate in these education, work, and training programs, Congress recognized that child care and other support services would be needed. States may use vouchers, direct payments, or other types of financing, and care may be provided by relatives, independent contractors, or day care centers.

Our regulations embody President Bush's approach of parental choice, within State fiscal constraints, when deciding among child care options.

Finally, we must keep the focus on women and children. In the AFDC program, women and their children always must be our primary concern. We must not lose sight of the fact that these are real people, and not just papers being shuffled through the bureaucracy.

Rather than taking more of your time now to describe further the content of our proposed rules, I would like to include for the record a detailed summary of the main provisions of these regulations. However, I would like to point out that the initial commentary on the regulations has been very positive. We have already started to evaluate early comments and plan to meet the required publication date of October 13 for the final rules.

These regulations are a first, very positive step in providing the opportunity and resources for needy families with children to obtain the education, training, and employment that will help them learn and work their way from welfare to independence. Dr. Sullivan is extremely proud of these regulations and the effort and coordination that was essential to getting the regulations published on time.

We look forward to the constructive comments that I know we will receive from the Congress and the States, and we look forward to continuing to work with you to complete our job.

I would be pleased to answer any questions, along with Ms. Bertini, that you may have.

Senator MOYNIHAN. We will put your entire statement in the record, with that detailed, and very handsomely detailed, set of specifics at the end.

Can we now just go to child support for a moment? Perhaps Ms. Bertini will tell us what we should know there, because absent that there would be no legislation—nor should there be, I am prepared to say, nor should there have been.

Ms. BERTINI. Yes, sir.

As Mrs. Horner mentioned, I believe, the child-support provisions are really very important, and I understand you put them number-one in the program for that purpose. A good program could not exist without strengthening child-support enforcement.

As you know, there are four main provisions in the child-support enforcement, in the statute and in terms of the regulations that we published:

One deals with timeframes, so that States and other entities that administer the child-support programs have specific guidelines in which they need to act on behalf of the custodial parent and her children;

Second is the guidelines, as it relates to support orders;

Third, wage-withholding, the mandatory wage withholding provisions that will take place in two to 5 years; and then,

Finally, genetic testing in contested paternity cases.

We find all of those to be constructive, positive approaches to the law.

Senator MOYNIHAN. You have a note by your right elbow.

Ms. BERTINI. It reminds me, sir, that we published the NPRM regarding the timeframes. The NPRM for immediate wage-withholding and guidelines have yet to be published. They were not part of the April 13 statutory deadlines.

Senator MOYNIHAN. But they are coming? They are in place? I mean, they are done, or near?

Ms. BERTINI. They continue to be worked on.

Senator MOYNIHAN. Just a few questions, Connie, or Madame Secretary, if I may, to make a point here:

What proportion—and you are not supposed to know this——

Ms. HORNER. And I am sure I don't. [Laughter.]

Senator MOYNIHAN. What proportion of AFDC cases receive child support?

Ms. HORNER. May I ask Ms. Bertini to respond, if she knows this?

Senator MOYNIHAN. Of course. You are a panel.

Ms. BERTINI. I must ask you, Senator, if I could, to clarify.

Senator MOYNIHAN. How many AFDC fathers contribute to the support of their children, as required by law?

Ms. BERTINI. It is about 10 percent, Senator.

Senator MOYNIHAN. About 10 percent.

Ms. BERTINI. Yes.

Senator MOYNIHAN. That is really pretty remarkable, isn't it? About 10 percent, but we don't really know, do we? We don't know. That is what your colleagues behind you are saying, and that is all right. Don't be afraid to say, "We don't know."

Ms. Bertini. Yes, sir.

Senator Moynihan. The law requires that this be done, right?

Ms. Bertini. Yes. In fact, by our regulations, we are——

Senator Moynihan. In the previous law, not just the law we enacted. The law for 15 years.

Ms. Bertini. Yes, sir.

Senator Moynihan. Yes. And so that my be 10 percent?

Ms Bertini. It is a piece of the program that is not as strong as it could be, because often the intake workers are not as specific with the AFDC applicants who come in about issues like, "Who is the father of the child?" And in encouraging applicants to actually cooperating in obtaining court orders.

Senator Moynihan. "Intake workers"? It sounds like a valve, sort of a complex hydraulic system. Do you mean welfare workers?

Ms. Bertini. Yes, sir.

Senator Moynihan. The person in the office?

Ms. Bertini. Yes, sir.

Senator Moynihan. In New York City, welfare workers don't seek that information at all. It is part of our free and easy ways. You know, "Who would dare to suggest a father might support a child?" You know, "Victorian repression—you will get all kinds of psychoses if you start things like that."

Connie, may I make the point—and I don't mean to be in any way critical, Ms. Bertini, but you said, "This is an aspect of the program." I think those are your words. No, it isn't; it is the law. It is the law.

How many people, how many fathers, have you taken to court in the last year, saying, "You are breaking the law. You owe us money"? "You owe money. We put in the provision for the maintenance of the mother and child; and society is paying for the provision of the mother of your child and your child, and you, by law, are required to contribute to that. It is not an option." How many people have we taken to court?

Ms. Bertini. Well, I am afraid our reporting process does not directly include that information, sir.

Senator Moynihan. You lost me. I usually can follow you. "Our process does not directly do it"? Do you do it indirectly?

Ms. Bertini. I am sorry. Are we discussing the AFDC program, specifically?

Senator Moynihan. Yes.

Ms. Bertini. When a mother comes in, and it is established who the father is, if it is, what kind of parameters for child support——

Senator Moynihan. "Parameters"? Now, what is a "parameter." Describe a parameter to me in mathematics. What is a parameter?

Ms. Bertini. I don't mean it in mathematical terms, but rather——

Senator Moynihan. In what sense to you mean it? What sense has it got?

Ms. Bertini. Has that particular father, if he is——

Senator Moynihan. No, "parameter." I want to know about "parameter."

Ms. Bertini. If I could use the word "scope," that may be a better word to use.

Senator MOYNIHAN. That is good. "Parameter" is a fake word. It acts like you know a lot of algebra, which most of us don't know. Maybe you do; I don't. It is a word to be avoided, unless you know what it means. "Scope" is good.

Ms. BERTINI. The scope, in each individual case, of what specifically is being done by that father, if he is named, in order to pay for the support for that child. That is asked of the welfare mothers who come in to apply in any office. As the process goes forward, there is a court order undertaken. If there is child support to be paid——

Senator MOYNIHAN. Court order "undertaken"? Court orders are "issued."

Ms. BERTINI. Yes, sir. If there is a court order issued, and support has been paid, then obviously that would be added to the State's collection process.

Senator MOYNIHAN. "Collection process"? How do you add to a process?

Ms. BERTINI. The State undertakes the process of collecting child support dollars for those people——

Senator MOYNIHAN. It "undertakes the process"? You mean, what? The State collects the money from the father.

Ms. BERTINI. Yes, sir.

Senator MOYNIHAN. And then what happens?

Ms. BERTINI. In the case of AFDC mothers, the State uses that collection to offset the AFDC payments at the same rate that the State pays for the AFDC collection.

Senator MOYNIHAN. By "offset," do you mean it gets to keep some of the money?

Ms. BERTINI. Some of the money. That is correct.

Senator MOYNIHAN. Not all of the money.

Ms. BERTINI. That is correct.

Senator MOYNIHAN. What is the rest of the money?

Ms. BERTINI. Well, $50 is a passthrough that goes to the mother.

Senator MOYNIHAN. Why say "passthrough," when you say the $50 goes to the mother?

Ms. BERTINI. Those are just the common terms that are usually used to discuss it, the $50 dollar passthrough.

Senator MOYNIHAN. And that is why we don't know anything about the subject. May I say, quite gently, we don't know one damned thing about the subject—passthrough, parameters, all of those words, which avoid meaning.

Remember, that mother and child gets an extra $50 per month—not just once in a while, per month. And the Federal Government gets some, does it not? How much?

Ms. BERTINI. The Federal Government takes the money that the State otherwise uses and——

Senator MOYNIHAN. "The Federal Government takes the money which the State otherwise uses"? That does not make any sense, Ms. Bertini.

Ms. BERTINI. Sir, if you don't mind, Mr. Bob Harris is here, who is the head of our Child Support Enforcement Office, and if I could ask him to respond more thoroughly to your questions, I would like to do that.

Senator MOYNIHAN. Sure.

Mr. Harris?

Can I just interrupt? Senator Chafee has arrived.

We have just heard from Ms. Horner, very able testimony; but I was asking about child support, the regulations for which have not yet been published. I was asking what the prospects for them are. That was our first title, as you well remember.

Senator CHAFEE. At some appropriate time, Mr. Chairman, I would ask about the Teen Care Demonstration Program, but that can follow.

Senator MOYNIHAN. Can we just finish this up, first? Sure, because that is a very special concern of yours.

Senator CHAFEE. Thank you.

Senator MOYNIHAN. Mr. Harris. Is it Robert Harris?

Mr. HARRIS. Yes.

Senator MOYNIHAN. Good morning, sir.

Now, tell us about child support. There is a statute. The statute has been there for a very long time. Absent parents—males, in the overwhelming proportion—are required to contribute to the support of their children and the mothers of their children. And it is your general impression that maybe 10 percent do.

Mr. HARRIS. In AFDC cases, about 10 percent of the absent parents are paying child support, yes.

Senator MOYNIHAN. And when you pay, that extra money, $50 a month per child, goes to the family itself.

Mr. HARRIS. Yes, $50 of the current support collection per month goes to the family on AFDC.

Senator MOYNIHAN. Not just the government getting back some money, which is a good thing, too, but the child gets money.

Mr. HARRIS. That is correct.

Senator MOYNIHAN. But 90 percent of the children don't.

Mr. HARRIS. That is correct.

Senator MOYNIHAN. Because we do not enforce the law.

How is it divided? You know, obviously, but for the record, let us say $100 a month is received from the parent. How is that allocated?

Mr. HARRIS. Up to the first $50 a month in current support is disregarded and goes to the family on welfare. The remaining $50, in your case, is then divided between the Federal Government and State or local government, depending on their contribution.

Senator MOYNIHAN. The ratio that is now in place.

Mr. HARRIS. Yes, the AFDC grant payment.

Senator MOYNIHAN. Yes, and each State has a different ratio, and then in some States like my own, New York, you have a further division between the State and local government.

Mr. HARRIS. Yes.

Senator MOYNIHAN. So, the local government stands to get revenues.

Mr. HARRIS. Yes. Both State and local government find it a very profitable program.

Senator MOYNIHAN. Well, not very profitable if they only have 10 percent.

Mr. HARRIS. Well, even with that, though.

Senator MOYNIHAN. Well, it is better than no percent.

Mr. HARRIS. Well, if you look at the last fiscal year, fiscal year 1988, the direct payoff to State and local government is probably in the range of about $400 million.

Senator MOYNIHAN. Could I just ask you a point? And I am going to ask this of the Under Secretary, because it is so very relevant here. It is profoundly relevant here:

In constant dollars, what has happened to the average payment to a child under AFDC since 1970?

Mr. HARRIS. The AFDC grant payment, itself, do you mean?

Senator MOYNIHAN. Yes, sir.

Mr. HARRIS. I would assume, because of inflation, that it is——

Senator MOYNIHAN. Let Ms. Horner and Ms. Bertini have a chance to answer.

Ms. HORNER. I am told it is down about 30 percent.

Senator MOYNIHAN. It is down 35 percent—exactly. We have cut the benefits to children by over one-third. Do you know any other interest group in the country that has had its benefits cut 35 percent? No, you don't.

Senator CHAFEE. May I ask a question in connection with this?

Senator MOYNIHAN. Yes.

Senator CHAFEE. I am very sympathetic to the point the Senator is making. I am shocked by it, too. But just to see if it is as shocking as it appears—and I am not denying that it is—in 1970, were there other benefits covered elsewhere, other than the strictly cash payment that have now stepped in.

For example: The extent of food stamp payments, the Medicaid Program. Is there any difference between then and now? Or are we talking apples and apples here? Are we making a totally valid comparison with 1970?

Senator MOYNIHAN. Food stamps are somewhat more generous, I think. And food stamps are more widely available.

Ms. HORNER. May we answer that, for the record? We would like to do an assessment and make sure that we respond accurately.

[The information requested follows:]

In 1970, the average AFDC benefit for a four-person family with no other income was about $658 in 1988 dollars. The comparable average AFDC benefit in 1988 was $471, about 28 percent lower in real terms than the 1970 level.

However, a more realistic way to compare aid received by poor families then and now would consider the entire package of programs available. If average AFDC assistance is considered along with the Food Stamp, Medicaid, and Child Nutrition programs and energy assistance, benefits have kept pace with inflation in many States and in some have actually exceeded it.

Senator CHAFEE. I am not saying it is not a valid comparison; I am just curious.

Ms. HORNER. I don't know.

Senator CHAFEE. We have just got to be careful that all of us know the facts.

Thank you.

Thank you, Mr. Chairman.

Senator MOYNIHAN. Sure.

Two points here to make, and not in any sense to harass, but to press:

You know, we look up, and the poorest group in our population are children. Do you know where those numbers really come from? The House of Representatives puts them out once a year.

Food stamps are indexed to inflation, and they help, but they haven't made up the 35 percent decline in AFDC benefits.

If in 1970 someone had stood up and said, "I have a plan for social welfare: I would like to cut the benefits of 3-year-old children by 35 percent—their food and clothing," people would have said, "You are not a very nice person." But that is what we did. Whilst forests perish to furnish the paper on which are proclaimed the concerns of the political classes for the welfare of children, that is in fact what we have done.

And in the main, HEW/HHS has been silent about it. They have just been silent. You sure as hell wouldn't do that to farmers and not hear from the Secretary of Agriculture. Now, Dr. Sullivan is going to change this, I am sure; but his predecessors have been silent. And you are just taking over this great enterprise, and you are going to do brilliantly at it.

Before we get to Senator Chafee, two things in that regard: May I point out to you that you have no data? The way the bureaucracy, and the political groups, and OMB have avoided this catastrophe to children is by having no information. They have avoided the fact that they do not enforce the law. The law says absent parents must contribute. This is more than just a fiscal thing; it is a statement of responsibility, a statement of what kind of country we are—you can't have children and walk away from them, as masses do.

As I said earlier, about a third of American children will live on welfare before they are 18. And still we make no attempt to enforce child support. The hidden doctrinal/ideological agenda that says, "It is probably not good for mothers and children to have an absent parent paying"—somewhere there is a streak of that, I just know it; I have been around this subject long enough.

The law is not enforced, and you don't have the data. Now, what I would hope you might say to us right here and now, Secretary Horner, is that HHS is going to start finding out what is happening to children, and recording it, and reporting it, and reporting it in the context of this legislation.

As you may know, the CBO has published, earlier this year, the data on which we put together the legislation, and it is very bearish. It says, "You won't do this. It won't happen. You don't have people good enough to make it work. You don't have the energy to make it work." And this may even turn out to be true. And we have said, "We won't know until the turn of the century. You know, that is not very far away."

Do you follow what I am saying?

Ms. HORNER. Yes, Mr. Chairman. And indeed, Dr. Sullivan, I think, on a daily basis is now making it clear that he takes very, very seriously the interests of poor children in this country, and that support by parents for their children is an irreducible principle with him.

Senator MOYNIHAN. Well, why don't you go up to New York City and say, "Either start collecting Social Security Numbers, or forget about it, and you can support those million people on your own"?

Ms. **Horner**. This is an area that we obviously need to——

Senator **Moynihan**. Just call him. HHS could have said this to New York City any time in the last 15 years. City officials were pretending there was a law that prevented them from collecting Social Security numbers. We found out there was no law. We wrote a section in the Family Support Act, anyway.

Ms. **Horner**. There have been a lot of forces causing the entire political community, and at every point in the spectrum, I think, to avoid explicit statements in this area. And I think the time has come when we need to have information and make statements.

Senator **Moynihan**. When that many of our children are involved, you know.

Mr. Harris, did you want to say something?

Mr. **Harris**. Yes. I would also just like to briefly respond, if I could, Mr. Chairman. I think everyone would agree that we need to do a great deal more in terms of the collection of child support. By the same token, I think we have been making some progress.

I think it is also important to recognize that the operation of the child support enforcement program, as opposed to setting policy and auditing and paying most of the bill, is at the State and local level.

Senator **Moynihan**. Right. But if you need penalties, we will give you penalties.

Mr. **Harris**. And we, indeed, have taken penalties over the last couple of years.

Senator **Moynihan**. Would you be able to say, there is "this" penalty; for example: "Mothers can be dropped from AFDC because they have failed to cooperate"?

Mr. **Harris**. Yes.

Senator **Moynihan**. How many have been?

Mr. **Harris**. I don't have the number off-hand. I will be glad to supply that for the record.

[The information requested follows:]

Our data on AFDC recipient characteristics for fiscal year 1987 indicate that about 3500 AFDC families are in restricted payment status for refusal to cooperate with the child support agency.

Mr. **Harris**. But I think that it is also reasonable to say that penalty is under-used, that there is far more non-cooperation than is actually reported.

Senator **Moynihan**. Sure. If you found 35 cases last year, you would be surprised.

What I would like to ask you, Constance Horner, to think about is an annual report. In the late seventies, this issue, the whole welfare issue, was pushed down to the third level of HEW—the single most important program you run, in terms of children, certainly. We gathered no data. So, today we are talking about kibbutzes for drug-using women and their children, we are talking about boarding schools, and you will soon be talking about orphanages.

I am not asking you to agree, but agree that you will think—because when you think, you think good—about a database, starting with this legislation, starting with the things that Senator Chafee is talking about, and tell us, year after year after year, how we are doing.

Ms. Horner. We will think about that, Senator——

Senator Moynihan. Will you think about it?

Ms. Horner [continuing]. And agree with you that there is a serious problem of the magnitude you describe.

Senator Moynihan. Thank you.

Senator Chafee?

Senator Chafee. Thank you, Mr. Chairman.

One, in connection with thinking about an annual report, not that this is an instance, and I am not talking in connection with this, but all too often on the floor of the Senate we have got a difficult problem, where nobody wants to vote against a proposal, yet it is not a good proposal; so, we resolve it by saying, "Well, instead we will request a report."

So I would ask, while you are thinking about possibly giving us an annual report, that you come up with a list of three currently required annual reports that you don't think are necessary, and that have taken a lot of work to produce, and suggest to us that we drop the requirement that we impose those three reports on you. Seriously, a 3:1 ratio; we will drop three, and you give us another one.

Ms. Horner. That is an extremely helpful suggestion, Senator, and we will probably do more than think about taking you up on it.

We do a Child Support annual report, I am told, which I have not yet seen but will take a look at.

Senator Chafee. In the bowels of that organization you have got, and I will bet there are people who labor at those reports, a manifold number of reports, that nobody ever reads up here, and that some obscure person called "they" years ago requested of you, and which you still dutifully report.

Now I would like to move on. I second everything the Chairman says, and I have often plagiarized some of his comments. One of them is, if I have got it correct, "We are the first nation in the history of civilization in which the children have fared the worst in our society."

Is that a Moynihanism?

Senator Moynihan. Well, if you want to know, it is the Luxembourg Income Survey, but it is a fact.

Senator Chafee. Of any segment—taking the elderly, the middle-aged, younger adults, and children—in that economic cross-section, the children are the worst off in America today. Do you agree with that?

Ms. Horner. Senator, I am not a statistician. I think common sense tells us that there is a lot of evidence to support what you have just described.

I think it is part of a broader problem we have in this country, now, which is that we have stopped gearing our national life toward the future—not "stopped," but we do it less than we used to, and we are seeing in our treatment of children a manifestation of that fact. We see it in our savings rate; we see it in all kinds of investment decisions we don't make.

Something is going on, which I don't undertand, which is causing us not to build for the next generation as much as we have historically, and as much as I think many of us think we should. Children are the most serious component of that cultural change.

Senator CHAFEE. Let me just briefly talk about the Teen Care Demonstration Projects that we included. Unfortunately, we didn't include the money for it. We were going to start at $1.5 million, but there is no appropriation for that.

Two questions: (1) Do you support this program? And (2) If we had the money for it, would you get your regulations out fairly quickly? Do you understand what it is?

Ms. HORNER. I am just picking up on it.

Senator CHAFEE. Well, I will briefly tell you what it is. It is a demonstration project to take teenagers in different sections of the country, where the demonstration grants have been allocated, and try to increase in them a sense of self-esteem that would not necessarily be gained through school. It might be gained in athletics, it might be gained in some kind of cultural activities, it might be gained in participating in some kind of environmental activity—whatever it is—something that will make the child feel he or she is doing something well.

The general consensus is that so many of the problems of our young people, such as drug abuse and teenage pregnancy, come from this lack of self-esteem.

Ms. HORNER. Senator, that is a very good idea, and I think we concur in your diagnosis of the problem. There are a lot of proposals for demonstrations in the law, and we are operating under some pretty stringent fiscal constraints right now. But I think everyone agrees that these is a problem that does need to be addressed. It can be addressed in a number of ways.

Senator CHAFEE. So, if we got you the money? It is funny—in the East we struggle for money. In the absence of the Westerners, I can safely say this: In the farm States, to grovel for a million and a half dollars would be below their dignity. I mean, they go for billions. And here it is, a simple million and a half dollars for this program.

Nevertheless, we will struggle, and hope we can get it.

Senator MOYNIHAN. Could I ask my friend a question?

We really do have a problem of enforcement of the law, a law strengthened now, that says absent parents have to contribute child support payments for their children. We get about 10 percent compliance. Why don't we start thinking of some incentive arrangements; where, as the revenues from child support collections rise, they can be moved into some uses of this kind? If you have got a 1 percent increase in compliance, you could pay for that teen program. I was very happy to support it.

Senator CHAFEE. A million and a half dollars we shall seek.

Thank you.

Thank you, Mr. Chairman.

Senator MOYNIHAN. I know you don't think this a trivial sum, but I can think of somebody who does. Last year the winner of the Texas State run-off for the largest cash payment from the Federal Government for agricultural subsidy was the Crown Prince of Liechtenstein, and he got $4.5 million, as I recall, in cash. He wouldn't think $1.5 million was much at all, for a man of his dignity and condition.

Two last questions: How many States have been sanctioned for lack of compliance with the requirements of the Federal Child Support Program?

Mr. HARRIS. Four, as of this time, Mr. Chairman.

Senator MOYNIHAN. Which are they, sir?

Mr. HARRIS. New Mexico, Mississippi, Ohio, and the Territory of Guam.

Senator MOYNIHAN. You have to be pretty awful to get sanctioned, I would think. New York has not been sanctioned?

Mr. HARRIS. No, not as yet. But we audit the States on a cycle of at least once every 3 years. And while we have found problems in New York, New York has not as yet failed an audit.

Senator MOYNIHAN. Well, New York City makes no effort of any kind. There are a million people on welfare. You haven't found that problem yet?

Mr. HARRIS. In terms of the size of the rolls, yes. One thing that I would point out about New York, Mr. Chairman: Clearly there is great room for improvement in both the City and the overall State of New York. I think, in terms of some of their procedures and policies, on their face, they look relatively good. It is a matter of how they are being employed.

Senator MOYNIHAN. Oh, we are very good at that. We invented regulations. I mean, we know all about regulations.

Mr. HARRIS. Oh, I would agree with you.

Senator MOYNIHAN. But what happens—I mean, seriously—if you have a 10-percent compliance nationwide, and you have sanctioned only three States and poor Guam?

Mr. HARRIS. Under the law, we are required to give a corrective-action period of no more than a year, and then re-audit.

Senator MOYNIHAN. No more than three decades?

Mr. HARRIS. No.

Let me just mention, while the 1975 child support legislation had a penalty provision in it—and I wasn't with the program at that time—the first time it was sought to be applied, there was congressional legislation which basically stayed the penalty and made it inoperative.

Senator MOYNIHAN. That will not happen in the One Hundred and First Congress. All right? We gave you a statute last year, sir, and you obviously are very capable at your work. You enforce it. If anybody gives you any trouble about it, you tell us. Okay?

Mr. HARRIS. All right.

Senator MOYNIHAN. May I say, Ms. Horner, that Senator Bentsen is particularly interested in the kind of evaluation studies that you will do of the JOBS program. We have written that into the legislation.

We are going to hear from a panel, next, which will involve the Manpower Demonstration Research Corporation. As much as you probably ever do, we modeled this legislation on the basis of research, which told us what you could expect and what you couldn't expect. We deliberately decided to try to do the hardest things, because what we had learned, or we thought we had learned, was that you get a return in this effort from the hard cases, not the easy ones.

If I could make the general point: About half the persons who go on AFDC are women who have had their families broken up, and it takes them some time to put their affairs back in order. AFDC is just income insurance for these women, just like unemployment insurance. People lose their jobs, the plant closes, and they find other jobs, and they don't need any advice or help from anybody in government. But the other half go on AFDC early and stay on indefinitely. And we say work on that other half.

So, Senator Bentsen is particularly interested that you will continue the tradition of hard evaluation. And if you want to knock off some other reports, please do. If this legislation fails, if nothing happens, then the orphanage will become a characteristic institution of the United States of America as we enter the twenty-first century. That will mean our reputation in the world will be shattered, and that reputation, to an extraordinary degree, is in your hands.

So, I thank you for your testimony. Would you give our great regards to Secretary Sullivan, who is in Atlanta today for a happy occasion, a commencement? And may I say what I don't have to say, but if I didn't, people would wonder why I didn't: "It is now the middle of May, and you still do not have an appointment from the President for the Assistant Secretary for Family Support. That is just hard to understand, in the light of what we know to be the Secretary's commitment."

If you want to give me an answer to that, do; if not, go in peace.

Ms. HORNER. Mr. Chairman, just briefly, of course we have an Acting Assistant Secretary who has produced very fine regulations, on time.

Senator MOYNIHAN. Sure, and I want to thank her. We want to thank Ms. Bertini.

Ms. HORNER. And we hope that the President will make this decision quite soon. This should not be taken as any lessening of our sense of the very great significance of the creation of this position, which we think was a very important part of the law did. We are glad that it was created, and we hope that before too long we will have it fully underway.

Senator MOYNIHAN. Good. That is the spirit. Leave here knowing that you have the support of this committee. We want you to succeed. Understand that it is expected that you will fail. So, that gets your blood up, right?

Ms. HORNER. My Irish has gotten up.

Senator MOYNIHAN. Good.

[Ms. Horner's prepared statement appears in the appendix.]

Senator MOYNIHAN. We are going to move to our next panel. Mr. Perales, who is the chair of the American Public Welfare Association's National Council of State Human Service Administrators, could not be here this morning. Well, he is not here. So, I will put his testimony in the record at this point.

[Mr. Perales' prepared statement appears in the appendix.]

Senator MOYNIHAN. Mr. Johnson, the executive director of APWA is here, and I am going to ask him to join our next panel. Just join in, and we will start hearing from the people who work at these things and care about them.

Our panel begins with Dr. Judith Gueron, who is President of MDRC, of which I was speaking about earlier; Mr. Dennis Boyle.

Mr. Boyle, where are you? There you are.

Mr. Boyle is Deputy Director, Management Systems and Evaluation Division, of the State of California Health and Welfare Agency, from which we received so many of the things we learned and worked with in the last go-round; and Ms. Dianne Edwards, also from California, from the Orange County Social Services Agency. I didn't know that they allowed social services in Orange County.

Ms. EDWARDS. We do.

Senator MOYNIHAN. You do. You said that very wistfully.

Ms. EDWARDS. We have 15,000 families on AFDC.

Senator MOYNIHAN. Wow. Well, there you are.

All right. I am going to hear the testimony from each of you, and then, as we take questions, Mr. Johnson, you feel free to join in and offer your comments.

Dr. Gueron, good morning, again.

STATEMENT OF DR. JUDITH M. GUERON, PRESIDENT, MANPOWER DEMONSTRATION RESEARCH CORP., NEW YORK, NY

Dr. GUERON. Good morning, Senator.

I appreciate the opportunity to appear today before this committee to share my observations on the proposed regulations to implement the JOBS title of the Family Support Act.

I will summarize my testimony and ask that the full testimony be included in the record.

Senator MOYNIHAN. Sure. And that will be the case with everyone. We want to get through the morning.

Dr. GUERON. As I see it, several factors should be considered in assessing the regulations:

The first is the nature of the legislation itself. As is typical with complex pieces of legislation, the JOBS title has many messages. It emphasizes human capital development and, as you just mentioned, investing to increase the employability of long-term recipients, and it establishes the concept of monthly participation standards and extends a participation mandate to a much enlarged share of the AFDC caseload.

The JOBS title in the Family Support Act does not reconcile these different directions, and this leaves a choice—they can be reconciled at the State level in the actual design and implementation of programs, or they can be reconciled in the regulations. The gist of my testimony is that the regulations move too far toward the second approach.

The funding structure is critical to consider in looking at these regulations. JOBS sets a floor for State investment at the 1987 WIN level and encourages additional spending in a way that covers a higher share of poor States' costs. Requiring a substantial State match for expanded programs has enormous implications. It means that the Federal JOBS legislation creates the opportunity for a new program, but that it will be up to the States to make this actually happen at more than the most minimal level.

There will be no major change in AFDC, unless States put up their own funds to draw down the newly-available Federal funds. This means that it will be essential to provide States with adequate incentives to translate the legislation's potential into a reality. Doing this is challenging, particularly in some of the poorer States that will, for the first time, for example, have to implement the AFDC-UP program.

A second factor covered in my written testimony is the extensive lessons from prior research, and here I will point only to two of them:

First, we have learned that even low- to moderate-cost programs can have long-term positive results, but that such programs are less successful with the most disadvantaged recipients. This points to the central role of the targeting provisions in JOBS and the importance of providing States with flexibility to test larger investments in education and other services for this more dependent group.

Second, we have learned that one reason for the success of programs during the 1980s was that they were State initiatives. As you have often said, Senator Moynihan, these were the Governors' programs. This largely explains why State invested often substantial funds, and why State staff responded more enthusiastically than they had often done in the implementation of the WIN program.

This suggests the last element to consider in assessing the regulations. States will begin the implementation of JOBS from very different starting places, and will put up very different amounts of funds. While all States will face a theoretical requirement to serve all adult recipients with children 3 or over, none will have adequate resources to provide everyone with comprehensive services. States will have to make choices between coverage and intensity—that is, between running programs that broadly cover a large number of people, or programs that provide more enriched services to a smaller number or, more likely, some combination of the two.

Past experience suggests that States are likely to vary in the choices they make on this trade-off.

Taken as a whole, the regulations seek to head off this trade-off, in fact, by requiring that States run programs that are both intensive and serve large numbers of people. But, short of printing money or mandating State taxes, there is no way to do this.

I draw a very clear conclusion from the experience of the 1980s: The movement to restructure AFDC will fail if States view this exclusively as a Federal program. We should be worried if we stop talking about GAIN, REACH, MOST, Project Independence, EET Choices, and the dozens of other acronyms, and start talking about JOBS. Were these to stop being "the Governors' programs," States would no longer have such a clear interest in investing their funds to make it happen.

What does all this suggest? It seems to me that the HHS staff faced an imposing challenge and are to be congratulated for their considerable effort.

In reacting to the regulations, I think it is critical to step back and look at how all of the pieces fit together. It is from this perspective that I would raise one central concern: Is the overall message so demanding—considering together the provisions on Statewide coverage, participation rates, reporting, and especially the intensity of participation—that it will undo State ownership and even program effectiveness? I am concerned that the answer might be "yes."

The particular provision that most directly tips the balance is the one that requires States, as a condition of receiving a more favorable Federal funding match, to assure that specified shares of the caseload average 20 hours of actual participation per week over a month, and to report on this accomplishment. The rest of my remarks focus on this issue.

Let me briefly explain why I reached this conclusion, since it doesn't sound very difficult in the abstract.

First, I would ask: Is it feasible for States to meet the regulations? Evidence from the 1980's suggest the challenge. Because of the State-wideness provisions and the expansion of the mandatory caseload to women with younger children, JOBS will provide less funding per eligible mandatory person than States spent in many of the earlier programs for which we have evidence of effectiveness. Despite higher average funding in those programs, moreover, our best evidence suggests that those early initiatives probably would have failed the JOBS participation test—a combination of the participation rates and the average weekly requirements. They wouldn't have passed it, and they had more money.

My written testimony summarizes many examples of this, but it is particularly sobering to look at what is certainly one of the nation's most extensive programs, California's GAIN initiative. Since I am sure you will hear a great deal about it from the next people to testify, I will only say that, in my opinion, while we don't have actual weekly hours of participation data available, what we do know suggests that GAIN also would not meet the 20 hours requirement.

Senator MOYNIHAN. We are going to find that out. That is a nice point.

Dr. GUERON. The second question I would ask is whether it is useful to ask States to increase the hours of participation to meet this. If they haven't done it in the past, should we try to make it happen?

The reality of JOBS implementation is that States will have limited funds and, as I mentioned, will have to make choices. However, one approach that some States might favor would be to provide relatively low-cost services—typical of those found cost-effective in the 1980's—to a large number of people, to meet the broad-participation mandate, and to concentrate the remaining resources on providing more expensive services to the potential long-term recipients.

The draft regulations would make it very difficult to do this, since their overall effect will be to increase the hours and cost of providing low-cost services.

Increasing the duration of these activities—for example, job search, or community work experience, or training—will involve inevitable costs, not only for the services and their supervision but for the child care that you will have to provide while people are in these longer services. This is troubling, because we have no evidence that there will be any pay-off, in terms of welfare savings or increased future employment, to expanding the duration and cost of low-cost services. It will also leave fewer or no funds for providing more expensive services to long-term recipients.

A final question relates to reporting: How difficult is it to report average weekly participation, as required in the regulations?

I am a real believer in information systems as an aid to program management, but the complexity of system needs depends on the complexity of program design. The management of some State programs might require the level of detail implied in the JOBS regulations. However, this detail goes far beyond what most States and counties will find useful and critical for program management. This is because many of them will not be able to afford to operate complex programs, and thus will not need overly complex data systems.

HHS is on the right track in pointing States towards the importance of tracking whether people actually participate, rather than are simply assigned to program activities as is the case, often, now. But a system of reporting actual attendance on a person-by-person basis, with a 45-day turnaround, is a goal so ambitious and so beyond what any State we have looked at can now routinely do, that it risks becoming a system of many numbers but little accuracy.

In conclusion, while the statute seems to offer many different paths for States, the proposed regulations tend to narrow these choices. I am concerned that States will judge the regulations proposed as unattainable within the context of their own priorities and resources. If this assessment is accurate, the regulations risk jeopardizing the State ownership of welfare reform that has been so important in pushing the system over the past decade.

I believe that there is much of value in the regulations and that they often clarify the implementation task constructively. But as a prominent change, I would recommend reconsidering the concept of defining participation in terms of hours of activity. Abandoning or substantially relaxing this feature of the regulations should give State officials more confidence that they can shape JOBS to their own conditions and goals and at the same time meet its requirements. The risk that this task will not be taken seriously is small.

Thank you.

[Dr. Gueron's prepared statement appears in the appendix.]

Senator MOYNIHAN. I thank you, Dr. Gueron, and not for the first time.

May I just interrupt to ask, who is here from Health and Human Services?

[No response.]

Senator MOYNIHAN. This hearing stands in recess. Don't move.

Where? Oh, well, stand up, then. Stand up and come forward.

The hearing will come to order.

We are trying to put this legislation in place. We bring very capable people from across the country, and the whole front row of HHS officials and staff just up and walks out as if they could care less what the rest of us think.

What is your name, sir? And welcome.

Mr. HUGULEY. Maury Huguley, sir.

Senator MOYNIHAN. And what is your role?

Mr. HUGULEY. I am a legislative analyst for the Family Support Administration.

Senator MOYNIHAN. All right. Would you do us the kindness—and we welcome you here—to go out and call Ms. Horner's office, and say we were not in the least impressed that her entire entourage just up and left; that, having told us what they think, they were not the least bit interested, apparently, in what the Governors think, or what MDRC thinks?

Come right back here and use our phones. You are very welcome. I am glad you are here; but those front benches, those empty benches, are exactly what is wrong—this bureaucracy is not capable of implementing our new legislation, and doesn't even know it is not capable. Come up, sir, and use our telephone.

All right. And that is why 10 percent is a real performance record.

Mr. Boyle, we have heard about GAIN, and we heard lots about it last time. Tell us what you think of these new regulations.

STATEMENT OF DENNIS J. BOYLE, DEPUTY DIRECTOR, MANAGEMENT SYSTEMS AND EVALUATION DIVISION, STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY, DEPARTMENT OF SOCIAL SERVICES, SACRAMENTO, CA

Mr. BOYLE. Thank you, Senator.

It is a pleasure to be here, and to have the opportunity to testify before you.

I am Dennis Boyle. I am a Deputy Director of the California State Department of Social Services. The background for my comments on the JOBS program is going to be from a position of having helped to develop and then actually implementing the GAIN program in California.

Senator MOYNIHAN. Sure. That is why we asked you. As Dr. Gueron said, we looked to the States. This was a State initiative.

Mr. BOYLE. The challenges faced by the administrators in California are actually very similar to the challenges faced by HHS in implementing this bill, and I want to take just a minute to talk about the similarities.

Number one, we had a very complicated program, in GAIN, that was brought to us as the result of extensive legislative debate and compromise. Any time you have a complicated bill like that, you have a lot of people representing various points of view who come together for something that not any one of them might have devised on their own. You have a complicated program that is intended to please a lot of different audiences, so we had a lot of different people watching what we did with the legislation.

Now, GAIN, in California, is a large program. We have budgeted in the current year about $368 million.

Senator MOYNIHAN. Of your money?

Mr. BOYLE. That is a mix, Senator, of State and federal. About half of it is State money.

We have invested substantially, where, prior to the advent of JOBS, there would have been no Federal money.

We have been in the business of implementing GAIN for the past couple of years. We allowed ourselves several years for the counties to get started. We have over 50 counties—they are independent bodies from the State, much as the Federal Government works with the States as independent bodies—and we have recently reached a couple of important plateaus with GAIN.

Number one, the program is implemented in each of our political subdivisions. We have 58 counties.

Senator MOYNIHAN. You have, for example, got to Los Angeles County. You were sort of taking your time, but you got there.

Mr. BOYLE. That is correct. Los Angeles County actually has begun to implement, as have the other 57 counties.

We have, so far, registered about 127,000 people, individuals, in the GAIN program and have begun to work with them. Of that number, about 38,000 have gotten jobs already. I won't claim that all 38,000 got jobs because of GAIN, but at least we know at this point that GAIN doesn't keep people from getting jobs; substantial numbers have moved into employment.

I want you to know, and it is important for you to know that California, prior to JOBS, is fully committed to the principles that were embodied in the legislation passed by Congress. We are fully committed in principle, with our politics, and we have put money up front to further those principles.

I am only going to comment on two aspects of the regulations.

Senator MOYNIHAN. You came here from California, so take your time.

Mr. BOYLE. I will comment on only two aspects of the regulations, but they are very important aspects. And finally, from our experience in implementing a similar program, I would like to comment on the manner in which HHS is approaching this task. But first of all, the regulations:

Dr. Gueron commented on the participation rates and the approach taken to participation rates. There are a couple of very unique and somewhat disturbing features of the approach taken in the regulations.

First of all is the requirement that, in order to count as a participant, someone must be participating in a program component for at least 20 hours per week—less than that, and you don't count.

Second, the requirement that, if you are in an educational component—and we find that is a very heavily used part of this kind of program; better than half of our people wind up in basic education, to begin with—you must be making good and substantial progress towards an educational goal, as defined by the already-existing policies of the educational facility that you are in.

Now, these two requirements can seem on the surface to be pretty reasonable requirements—I mean, 20 hours a week doesn't seem like a lot of time to spend on something like this, to you and me. But if you think about it, we are dealing with people who are not used to being out in the world, and we, indeed, have an awful time in getting people out of their homes and into a GAIN component.

Twenty hours a week probably is not unreasonable for those people who need the least amount of help. They are going to be banging down our doors looking to participate and to get the benefits of the GAIN program. But the folks we are concerned about are the ones who are most in need of services, the ones who are most difficult to work with. It is just not realistic to expect that we are going to get large numbers of those people, desperately in need of help, into a classroom or into a JOBS component for 20 hours per week. The same is true of the educational standard that we are going to apply. It is easy to get A-students into a classroom to work for 20 hours a week; it is tough to get F-students.

So, the effect of these two proposed rules is to drive the States——

Senator MOYNIHAN. To the A-students.

Mr. BOYLE. I think so, to the A-students. It is going to cause us to cream, drive us away from the folks most in need of our services.

Senator MOYNIHAN. And the spirit of this law, if I could put it that way, the intent has always been to absorb and use the lessons you have learned, one of which is to move to the hardest case.

Mr. BOYLE. Exactly.

So, these two rules really aren't workable, and they certainly don't further the legislative intent. I think we should move entirely away from the idea of counting participation in terms of hours per week or hours per month, or whatever, and move to something more practical that doesn't drive us away.

Senator MOYNIHAN. Which, for instance, would be—?

Mr. BOYLE. It could be a point-in-time sample that we would take. One day a month, how many people are in a component?

Senator MOYNIHAN. A point-in-time sample. I am not sure I know what you mean, but obviously you know what you mean.

Mr. BOYLE. One further thing on participation rates: We have learned that it is really tough to get these folks out of their homes, who have been there for many, many years and have never been touched, other than by the mailman bring a welfare check. The first critical step in any of these programs is going to be the orientation that we invite people to.

We have found, in variably, in all 58 of our counties, that in getting people out of their homes, and to that first very important step, we have been experiencing on the order of a 50-percent no-show rate—quite often we will have an empty classroom, where we had invited a lot of folks to show up—simply because they require some encouragement, they require some individual work, and we need to pry them out of their homes.

For all the effort we put into that, and the way that orientation is so important for setting the stage for how successful the rest of the program is going to be, in the regulations HHS doesn't recognize participation in orientation as something counting towards the participation rate.

I think we need to recognize that orientation is an important piece of the program. First of all, getting people to orientation is a major first participatory step; and, second of all, the way you structure things in that orientation session may have a lot to do with how people approach the rest of the program. It is an important piece of the program. We need to give recognition to that.

Tracking and reporting systems: There is a major section of the regulations dealing with tracking and reporting, and things that have to be reported or commented on or provided to HHS are touched on throughout the regulations.

I recognize, probably better than a lot of folks here, how important good information is to managing a program. It is important to making the program run well; it is important in providing information to legislators, so they can make further decisions about the program; it is important to the public so that we make sure that our money is well spent. And in putting together the GAIN program, we put horrendous requirements on ourselves to report a lot of data in probably much more detail than we ever should have.

But I want to tell you, Senator, what we did to ourselves in California doesn't hold a candle to what we would be required to do under the proposed rules by HHS.

Senator MOYNIHAN. Too much. Everybody here is nodding.

Mr. BOYLE. For example, the proposed rules would require us to report case-specific information; in other words, a lot of information about individual cases. In the AFDC program we do something similar, in measuring our error rate, how accurately we pay——

Senator MOYNIHAN. Sure. We require you to.

Mr. BOYLE. Exactly. In California we report on 1200 cases each 6 months, 2400 cases a year in the AFDC program. That is a $2 billion a year program in California. The proposed rules for JOBS would have us report 9,800 cases per month to the Federal Government.

It puts me in mind of the first "Indiana Jones" movie. Do you remember at the last scene, where they put the relic that they had been searching for in the government warehouse, and it backs away? And the entire movie had been focused on that?

Senator MOYNIHAN. The Ark of the Covenant.

Mr. BOYLE. Five years from now, the Ark could be lost, in the warehouse that was storing the GAIN records, I believe.

We need to be more reasonable about the information that we look for. It is important, and it is probably even advisable to go a little bit overboard; but this is too much. We need to have HHS work with our reporting system experts, who can describe for them and work with them to develop an aggregate system of reporting that isn't going to be quite so murderous.

That brings me to the final point, and I want to pay HHS a sincere compliment on this. I have been a bureaucrat for a lot of years, implementing Federal programs in the welfare area for that entire time. Truthfully, never before have I seen a Federal agency reach out in a more open way than HHS has done to gather information to write these regulations well. They really have. Ms. Bertini herself came to California, sought input from our State staff and from other staffs throughout the nation, made an effort to reach out especially to the local level—I know she has talked to advocates and people in education—and I would like to see that continue.

What they need to do, however, to make the process really effective is to check what they have heard with us once again. They ask our opinion; what they ought to do is draft their material, draft their regulations, and show it to someone, and say, "Did I hear you correctly? Is this the right way to go?"

You know, I think we should expect them to do nothing more than the Congress did in writing this law. As each section was written, as each rule was proposed, it was put out on the table for comment immediately, and there was a constant feed-back, a constant changing. And that is the way HHS ought to approach these regulations. They haven't done it in dealing with the proposed rules that we have seen. They have asked our opinion, but we never knew how well it had taken until they actually sprang the proposed rules on us.

As we move forward from here to final rule, I believe they ought to start meeting periodically with the advocates, with the States, with local people, to make sure that they are actually hearing what we recommend. I think that will avoid a lot of the problems. Some of the things that we are going to comment on in the regs are ludicrous. They are that way only because they missed something in reality; they didn't stop to check it.

Those are my comments.

Senator MOYNIHAN. Those are very important comments, and that is why I wish Ms. Bertini and her associates were still there in the front row, listening to you.

[Mr. Boyle's prepared statement appears in the appendix.]

Senator MOYNIHAN. Ms. Edwards, you are going to tell us about the specifics of Orange County.

Ms. EDWARDS. Yes, Senator. Thank you.

STATEMENT OF DIANNE EDWARDS, DIRECTOR OF ADULT AND EMPLOYMENT SERVICES, ORANGE COUNTY SOCIAL SERVICES AGENCY, TESTIFYING ON BEHALF OF COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA, SANTA ANA, CA

Ms. EDWARDS. Senator, my name is Dianne Edwards. I am Director of Adult and Employment Services for the Orange County, California, Social Services Agency.

Orange County has a population of approximately 2 million people, and, as you pointed out, we have a reputation for not having anyone on welfare. But I misspoke before—actually we have about 19,000 AFDC families at this point in time.

Senator MOYNIHAN. You have 19,000 AFDC families?

Ms. EDWARDS. Families, that is right. So, we are talking about roughly three persons to each family. That represents about 3 percent of the State-wide AFDC caseload in California.

Orange County implemented California's GAIN program in September 1988, and we expect to serve about 5,500 active participants when we are fully implemented in the GAIN program or the GAIN version of JOBS.

Senator MOYNIHAN. It is about the ratio we see generally, isn't it?

Ms. EDWARDS. That is right, about one-third active participants.

Senator MOYNIHAN. I am going to interrupt you. Of that 19,000 families, would it be roughly accurate to say that about half of them really just come on welfare in the aftermath of some sort of marital disruption, and leave pretty much on their own, without any great attention from anyone?

Ms. **Edwards**. I think our studies have shown that the average family stays on under 2 years. That is correct.

Senator **Moynihan**. But it is kind of bimodal, isn't it? I mean, there is that family that stays 18 months, and then there is the family that stays 12 years.

Ms. **Edwards**. That is true.

Senator **Moynihan**. And so, you just leave the people who are going to be on there 18 months alone; they have no income for a period, but they get out of that situation.

Ms. **Edwards**. That is true.

Senator **Moynihan**. But the 5,500 you ought to work on are the ones who aren't going to get out of that situation on their own.

Ms. **Edwards**. Hopefully, that will be a combination of both; but, certainly, we want that 5,500 to represent the hard-to-serve, and that is what our projections include.

Senator **Moynihan**. Yes. We are right together.

Ms. **Edwards**. All right.

Senator, I am also the chair of the GAIN Committee for the County Welfare Directors Association of California, CWDA, and it is in that capacity that I will be offering my comments today.

Senator **Moynihan**. Please.

Ms. **Edwards**. So, I am not just representing Orange County but 58 counties.

Senator **Moynihan**. Of course.

Ms. **Edwards**. First of all, I would like to say that CWDA fully agrees with the comments provided by Dennis Boyle, representing the State Department of Social Services. My comments in many ways will touch on the same issues that he has already touched on; but, hopefully, I can give you more of the real-world perspectives, since I represent an organization that actually deals on a day-to-day basis with the GAIN or the JOBS participants.

CWDA is very optimistic about the Family Support Act and the new JOBS program. My testimony will touch on five areas in the proposed regulations which we feel would negatively affect the current employment and training efforts that California already has underway within the GAIN program.

Those five areas that I will touch on are:

First of all, the proposed limits on child care for JOBS clients;

Second, the required achievement of a minimum eighth-grade literacy level;

Third, U Parents and the phase-in, or the need as we see it for phase-in, of the jobs caseload; and

The fourth area, again, is the data collection requirements, which we have serious concerns about.

Senator **Moynihan**. "U Parents" is AFDC–U?

Ms. **Edwards**. Yes. I am sorry. Unemployed Parents.

And finally, the proposed limitations on use of on-the-job training in certain situations.

If I may, let me first address the proposed limits on child care for JOBS clients. We see three areas that we have concern about. I think we all agree or start from the framework that child care, adequate child care, is absolutely vital to the success of the JOBS program. With that importance in mind, I would like to point out to you three particular provisions that we feel will thwart our ability to provide adequate and safe child care for JOBS participants:

First of all, one of the proposed rules would limit the Federal participation to the existing Federal disregard, or the local market rate based on the 75th percentile of cost of such care in the local area.

In California, in implementing GAIN, we have used a standard based on the 90th percentile level. We, among the counties, are very concerned that that 75th percentile limitation would have a negative impact on our ability to find suitable child care for JOBS participants. We believe it would create a major barrier to JOBS participation in many communities, particularly in the urban areas where the majority of child care providers charge rates that are close to the mean market rate. It is a matter of supply and demand, and the demand for child care is very high.

We would recommend that Federal participation be available to States at the regional market rate, rather than at the proposed 75th percentile limitation.

Second, it appears to us that Congress really intended to provide a full 12 months of transitional child care benefits to JOBS participants, or actually to AFDC recipients, in general, who go off aid because of employment. The regulations, as written, would tend to limit an individual's ability to get the full 12 months of child care in certain situations. Under the proposed rules, the time clock begins when the client becomes ineligible for aid; but the transitional child care benefit could not precede the date the client actually applies.

Basically, what we see is an administrative barrier that could preclude an individual's ability to be able to access the full 12 months of child care assistance.

The third area with regard to child care payments that causes us concern has to do with the lack of Federal participation for resource development, child care recruitment, and training for providers. On the one hand, the regulations require the State plan to address the methods the State will use to assure the availability of child care; and, on the other hand, we are denied the funding for those kinds of activities that we have found, in California, with GAIN, do lead to actually developing more child care. And as I said before, we know we have a shortage of slots.

Keep in mind, in GAIN we have been working with parents with children age 6 and over. Under JOBS, that population will be expanded, and we clearly know that we need more child care and need to go out and recruit additional child care providers. Therefore, we recommend that funding be provided for these activities under the JOBS program, as they have been provided for in California under GAIN.

The second area I would like to speak to is the required achievement of a minimum eighth-grade literacy level. We believe that this raises an important policy question about the level of competency needed for self-sufficiency.

In California, we are finding that those who have entered the GAIN program have serious remediation needs. In Orange County, for example, of 1300 active participants, 719, or 56 percent, are already in remediation classes under GAIN. Of that 719, 442 are in

English as a Second Language classes. Like Orange County, many California counties are impacted by refugees who are neither literate in their own native language nor able to communicate in English.

It is CWDA's view that an eighth grade equivalency level may be too high for certain individuals and unnecessary in certain labor market conditions.

Senator **Moynihan**. We learned in our testimony 2 years ago about the Hmong refugees, for example, who are now in California. Theirs is a pre-literate culture. It is not that there is anything wrong with their heads.

Ms. **Edwards**. They had no written language at all when they started coming to California.

Senator **Moynihan**. Stop everything.

Ms. **Edwards**. Yes, sir.

Senator **Moynihan**. This is a real question. The statute says "basic literacy," and the regulations say "eighth grade." Hmm. What do we think about that?

Mr. Boyle, you are cautiously approaching that microphone. [Laughter.]

Mr. **Boyle**. That is a difficult question for us to deal with, but it is an important policy question that we have struggled with, frankly, in California.

In dealing with this issue, I think we need to separate ourselves from the idea of providing a thorough grounding in basic education for all of our people from the idea of moving AFDC recipients from being dependent on welfare into jobs. Those issues are a little bit different.

For example, an eighth-grade equivalency makes a lot of sense when we are talking about a 13 and 14 year old child. They can relate to academics and what is in school. But when you are talking about an adult, you need to take into consideration at least as strongly their maturity skills and job skills.

Senator **Moynihan**. And getting to that orientation meeting.

Mr. **Boyle**. Exactly.

Now, there will be times, because of the job market, when an eighth-grade education ain't going to do it; you need someone who is better educated than that. And there are going to be times when the skills that are needed for a job, and to move someone into independence, don't necessarily equate to an eighth-grade equivalency.

We have a lot of money invested in basic education for welfare recipients in California; about half of the cost of our program, either directly or through supportive services goes to providing that basic education. My concern is, if we focus only on, for example, eighth-grade equivalency, we could wind up spending a lot of scarce resources where perhaps they either weren't required or could be focused better.

Senator **Moynihan**. I make the point, and I think I am right, that William Shakespeare had an eighth-grade equivalency in the common school that he attended. I think he was out by age 13. But eighth-grade equivalency varies from time to time.

Ms. Edwards, I interrupted you because you made an important point. Go ahead.

Ms. **Edwards**. That is fine, and certainly Mr. Boyle helped to clarify it.

Basically, what we would recommend is that States have the flexibility to set standards that are based on local labor market needs and other situations related to the clientele with whom we are working, because in California we are using a proficiency level of about a sixth-grade level; but it is based on a specially designed testing instrument that is job-related.

The third issue I would like to address is under the heading of a provision dealing with unemployed parents. Our recommendation is that a phase-in of the JOBS caseload be allowed.

If you will bear with me, I am going to quote one of the regulations' sections that has us quite concerned and also, frankly, confused.

Senator **Moynihan**. That is why we asked you here. We will happily bear with you.

Ms. **Edwards**. All right.

The regulations state: "No Federal financial participation will be available for U Parent families for any period beginning with the 31st day after receipt of aid, if no action is taken during the period to undertake appropriate steps directed toward the participation of such parent."

Our concerns and confusion are in the following areas:

First, we are unsure what is meant by "appropriate steps directed toward participation."

Senator **Moynihan**. If you get the right "parameters," you will be in the "appropriate" area. [Laughter.]

Ms. **Edwards**. True. We would like to define those parameters, actually.

For example, would a notice to attend a JOBS program orientation fulfill this requirement? Or, is what is being required full participation or active participation in a component, as defined by other regulations? If the later is what is required, then it is totally impractical and unrealistic from our perspective.

Mr. Boyle mentioned to you already that we have a no-show rate of about 50 percent of new participants that we are trying to get into the GAIN program. We continue to work with those people, to bring them into the system. Again, here, what you would see is a situation where, if we have to get all of the unemployed parents into the program and meet some unrealistic participation requirements by the 31st day, we would end up working with the easier-to-serve rather than the hard-to-serve in order to meet participation requirements.

Senator **Moynihan**. Got you.

May I ask a question, just for information here? I was much involved—or, rather, at least marginally involved—with the establishment of AFDC-U in 1962. I was Assistant Secretary of Labor for Policy Planning and helped produce the data. We basically saw that program, at the time, as extended unemployment insurance and really not an aspect of welfare at all.

So, I do not know, but I would have thought that a large number of AFDC-U families don't need any training of any kind; they need a job, and they will find it. Some may, in fact, have real troubles and need it. Again, it will be that kind of bimodal thing.

I see Sidney Johnson sort of agreeing.

Ms. **Edwards**. Again, it depends on the locality that you are talking about. In Orange County, about 50 percent of our U Parents are refugees, with very low skill levels. So, yes, they do.

Senator **Moynihan**. That is an employment problem, and a settling-in problem.

Ms. **Edwards**. And a training problem, and an education problem, and so forth.

Senator **Moynihan**. Yes. It is a different kind of thing. Sure.

Ms. **Edwards**. Right.

Senator **Moynihan**. And that should be recognized. As a rule, these are not people who in their previous life had trouble with employment.

Ms. **Edwards**. Basically what we would recommend, then, is that any requirement on U Parents to participate by the 31st day apply only to someone having to attend a JOBS orientation, rather than full and active participation, if that was the intent.

Senator **Moynihan**. We are going to get this in very specific proposals for changes—or, rather, the HHS will do.

Ms. **Edwards**. Yes. I am only summarizing to highlight the points that we are concerned with.

Senator **Moynihan**. Oh, incidentally, has anybody from HHS got back to our hearing room?

[Pause.]

Senator **Moynihan**. I am sorry sir, you are Mr.——

Mr. **Turner**. I am Jason Turner, Senator, and I am here from HHS.

Senator **Moynihan**. And you have been here all along?

Mr. **Turner**. That is correct, Senator. I am actually a consultant, a special assistant to the Acting Assistant Secretary for Family Support.

Senator **Moynihan**. Well, you are more than welcome; but my question was, did anybody get back from Mr. Huguley's summons?

Mr. **Turner**. We have somebody on the way.

Senator **Moynihan**. Has word reached HHS that we didn't think they should have just got up and left the minute the people who know something about this subject sat down to testify?

Mr. **Turner**. Well, Senator, I think that Maury, here, reached the Department.

Senator **Moynihan**. The phone call was made.

Mr. **Turner**. The phone call was made, and somebody will be here.

I should say, I am Special Assistant to Cathy Bertini, so, on her behalf, I should say that Maury's function is to faithfully report each and every one of the suggestions made here.

Senator **Moynihan**. All right. Good. But when someone does get back, it would be interesting to know, and we would like to record it in the record. Thank you, sir.

Please, Ms. Edwards.

Ms. **Edwards**. Yes, sir.

The fourth area that I want to touch on is the data collection requirements. As I mentioned before, the counties in California are as concerned, if not more so than the State, because, obviously, if data has to be collected, we will be the ones collecting and tracking it to turn it over to the State.

We are currently implementing data tracking and reporting systems in California for the GAIN program. And while we certainly recognized that, with the implementation of JOBS, there might be some new requirements, we had no idea that anyone could envision anything so excessive in the way of additional reporting requirements.

We are concerned because these new requirements would throw our current systems, which we have only just gotten up, into complete disarray, and the substantial investment of time and money that we have already put into data tracking and collection systems would just go down the drain.

We would also recommend that a look be made at the goals of the program, with an attempt to align the data collection and reporting requirements along those lines. We believe an evaluation of the program could be undertaken in a much better fashion by focusing on such things as program content, client caseload flow through components, rates of participation by components, barriers to participation, availability of child care, placement data—in other words, more outcome-oriented rather than process-oriented, which is what we see in the proposed rules.

Senator MOYNIHAN. "Outcome-oriented rather than process-oriented"?

Ms. EDWARDS. That is correct.

Senator MOYNIHAN. Nice. Nice.

Ms. EDWARDS. In general, our association is troubled by the overall thrust of the regulations regarding data collection. Combined with the definitions of "participation" and "satisfactory progress," what we see is a situation that ultimately will lead to that word that everyone hates, which is "creaming."

Senator MOYNIHAN. Yes.

Ms. EDWARDS. When you look at the data collection and how "participation" and "satisfactory progress" is defined, it would lead to a situation where States, in order to capture the necessary funding for their programs, would deal with the easiest-to-serve, and, again, the hardest-to-serve would be left to fall by the wayside.

Senator MOYNIHAN. And our legislation—based on the experience of GAIN and others, and the research at MDRC, and the advice of the APWA—said that is not what we are going to do.

Ms. EDWARDS. But we are afraid that is what the regulations are taking us to.

Finally, I will touch on one other area, the proposed limitations on the use of on-the-job training.

The regulations, as written, would restrict OJT positions, or on-the-job training, which are funded using work supplementation, to only those jobs which did not previously exist. We think this is a mistake. What we have found is that expansion positions created by an employer in an on-the-job training situation are more risky than regular positions. Our goal should be to get the participant into employee status, and this particular regulation would deny our ability to use OJT positions in the work-supplementation program unless they are brand new positions. We submit that that is in error.

Senator **Moynihan**. Those are your five points, and the general one, and they are very well taken, Ms. Edwards.

Ms. **Edwards**. Thank you.

[Ms. Edwards' prepared statement appears in the appendix.]

Senator **Moynihan**. Mr. Johnson, did you want to say something general about your associates here?

STATEMENT OF SIDNEY A. JOHNSON, EXECUTIVE DIRECTOR, AMERICAN PUBLIC WELFARE ASSOCIATION, WASHINGTON, DC

Mr. **Johnson**. Thank you, Mr. Chairman.

I would like to say, first, how grateful we are to you for your leadership in the introduction and enactment of the Family Support Act, and, just as importantly, in holding a hearing about implementation.

When I worked in the Senate in the seventies, there was seldom a hearing on implementation or oversight. New ideas and new programs were much more interesting and exciting. But we view the implementation of this law, and the regulations, to be absolutely essential to carrying out the intent of you and your colleagues who passed it. So, for all of us in human service agencies in the States and localities, we are very grateful.

I would like to apologize for Mr. Perales, whose plane was cancelled because of weather in Albany, and ask that you might insert his testimony in the record as if read.

Senator **Moynihan**. It will be inserted in the record in the order that he was to appear.

Mr. **Johnson**. If I might, I would like to make one or two points, rather than testify for him.

Senator **Moynihan**. Fine.

Mr. **Johnson**. First, I would like to agree with the witnesses on this panel about the severe problems that the proposed regulations cause with respect to participation rates, child care, data collection, and other issues.

In addition to what they have said or implied, I would like to say that the States have a huge interest and investment in this legislation and in its implementation. Many of the JOBS programs began at the State level, as you well know, before the Federal Government acted.

Senator **Moynihan**. Right.

Mr. **Johnson**. States will pay 40 to 50 percent of the total costs of these programs, that we are talking about today, and will realize substantial benefits or savings from their successes. So, they have an enormous investment and incentive to make those programs work.

My concern is that, with some of these regulations we are looking at today, those investments will not be realized, those savings will not be realized, and the participation rates and child care limitations will stand in the way of the success of the JOBS program.

We in the States and localities are interested in outcomes, in the numbers of recipients who through education, training, and work are able to become self-sufficent and leave the rolls. That, to us, is the bottom line. It costs us money if those outcomes don't happen. So, many of these other measures of activity and the rest are interesting, but to us the ultimate is how many of those families can get educated and trained and employed.

Second, I would underscore a point made by a previous witness, which is the importance of understanding, as you do, the differing labor markets among the States and within the States. If you understand the different labor markets, I think it calls for a lot more flexibility in how we define participation rates. The best computer training program in Boston may be a 14-hour-a-week program, and it may be putting young mothers into jobs. But if it is not 20 hours, it is not going to be counted under these proposed regulations.

An eighth-grade education level may be appropriate for one job market but not for another—it might be lower, it might be higher.

Child care costs vary tremendously.

The definition of "State-wide participation" may stretch programs so far that you don't get the number of people into jobs that you want.

Let me just say, with respect to those points and other points in our testimony, that we welcome the review of these regulations. We agree with Mr. Boyle that the next step is further conversation between the people trying to administer this program at different levels of government, the advocate groups, and the rest, to make sure we come up with something that works.

Thank you, Mr. Chairman.

Senator MOYNIHAN. Thank you, sir, and thank you all. We are going to make this a very consistent pattern of trying to follow what is happening. I hope we got our message across that there is obviously a problem of too much data with respect to actual ongoing operations, but some summary data about how we are doing as a nation is desperately needed, and it isn't there, is it?

Mr. JOHNSON. No.

Senator MOYNIHAN. Judith? Mr. Boyle? Do you know?

Ms. EDWARDS. That is correct.

Senator MOYNIHAN. And there is a reason for things like that; it is a matter of avoidance. It is saying, "Well, if you don't know, maybe the problem will go away, or something." It hasn't gone way. It sure as hell hasn't gone away.

Well, we thank you very much. Would you thank Governor Deukmejian for his courtesy in sending two of his principal officials? I guess you are a principal State-wide association, but thank California.

Thank you, Dr. Gueron, and, again, Mr. Johnson. Tell Mr. Perales that we missed him, but we have his testimony.

Mr. JOHNSON. I will. Thank you very much.

Senator MOYNIHAN. These things tend to run late, but we have the time, and we will use it.

But we are going to take the liberty of changing the agenda, as the weather is bad, and we have one New Yorker and one gentleman representing New York and Connecticut—Mr. Stanley Hill, who is International Vice President of the AFSCME, and Mr. Peter Cove, who is President of America Works of New York, and America Works of Connecticut.

In light of the weather, and such, we would like them to testify first, so we can get them on their way back.

Mr. Hill, we welcome you to the committee, and Mr. Cove. We will consider your testimony. It will be included in the record as if read. Summarize it exactly as you would like, for as long as you wish to take, because you have had the courtesy to come down here, and we want to hear you.

STATEMENT OF STANLEY W. HILL, INTERNATIONAL VICE PRESIDENT, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, NEW YORK, NY

Mr. HILL. Thank you for the opportunity, Mr. Chairman.

As you stated, I am Stanley Hill, International Vice President of the American Federation of State, County and Municipal Employees, and I am also the Executive Director of AFSCME District Council 37 in New York City.

I want to thank you for the opportunity to appear here today, to represent AFSCME's 130,000 members in New York City and our more than 1.2 million members nationwide.

I am here to raise AFSCME's serious concerns over the proposed regulations on the Family Support Act. The regulations on program participation, on displacement caused by mandatory work programs, and on child care, among others, do not accurately reflect the statute and should be changed. If not corrected, these regulations would cause States to run the kinds of punitive programs Congress wanted to prevent when it enacted the Family Support Act.

As a caseworker in New York City in the 1960s, I worked closely with welfare families. I learned first-hand that welfare parents must overcome very difficult barriers before they can successfully find work and support their families. Intensive and well-designed education and training programs are a must.

But in New York City today, what we call "welfare reform" is "work off your grant, or else." There is no attempt to provide an individual with a training program suited to her specific needs. I am afraid that the proposed regulations HHS has issued will force States to move further in the direction of the mandatory "work off your grant" type programs. It is time we move away from the punitive programs that I have seen New York City try to pawn off as "welfare reform."

To begin, there are major problems with the definition of the Jobs program participation. The proposed regulations require that work supplementation and on-the-job programs must be full-time, even though many welfare recipients would benefit greatly from a part-time training program.

Another problem is the requirement that an individual must participate at least 20 hours per week. But what if a welfare mother is best suited to a 15 hour per week training program?

Senator MOYNIHAN. We just heard a remark like that from Sidney Johnson of the APWA.

Mr. HILL. Right.

Should we force her to do a job search or CWEP for 5 hours, when she won't benefit from these programs?

These restrictions will result in a waste of limited resources, and they will force States away from the more expensive training programs and into job search and work experience—not because these programs are needed, but because they are easier and cheaper to operate. If a State does run a work experience program like CWEP, then that program must meet the standards set in the statute. I have seen how these programs abuse and threaten welfare recipients, and how in New York City alone they have caused the loss of thousands of entry-level jobs and the elimination of entire job titles.

The Family Support Act includes strong and carefully-worded language to protect regular paid employment and prevent displacement by work program participants. However, the displacement language in the proposed regulations is substantially weaker than the displacement language contained in the statute. The proposed regulations do not prohibit the displacement of jobs or positions, but only workers. They also require proof of intent to displace. Such changes gut the displacement provisions in the Family Support Act.

In New York City, it is not individual workers but entry-level positions that are displaced. Final regulations must be corrected to provide the full displacement protections, as Congress had intended.

To enforce the displacement provisions, the Family Support Act requires States to establish and maintain a grievance procedure. As a union leader, I know the importance of having a grievance procedure which results in a fair and prompt resolution of disputes, and the unnecessary problems that a poor grievance procedure creates.

To work properly, the State grievance procedure must include a fair process with specific time limits. They must also set the relief that should be provided if a displacement has occurred.

Without these provisions, the grievance procedure and the displacement language are meaningless. But the proposed regulations on a State grievance procedure are non-existent. No details on the content and the nature of the procedure are specified, and not a single minimum standard is set.

The final regulations must be amended to include provisions which set minimum standards for these procedures.

Finally, there are serious problems with the regulations on child care. The Family Support Act guarantees child care for welfare recipients who want to find a job; but the proposed regulations undermine this basic and vital guarantee. States can deny child care to welfare recipients who volunteer for the JOBS program. They can deny child care if they feel that the welfare mother can arrange for informal care, and to qualify for child care after finding a job, a welfare recipient must apply in writing. Given how understaffed we are in New York City's Department of Social Services, I can guarantee that processing this written application will lead to significant delays, forcing many welfare recipients who have gone out and found jobs to quit because of lack of timely child care help.

In conclusion, many of the proposed regulations will force States to operate JOBS programs that are more punitive and offer less services than Congress had intended. It is important that the regulations on participation be eased and that the displacement language be strengthened to reflect the statute, that standards for the grievance be set, and that the child care guarantee be protected.

These changes are necessary, Mr. Chairman, to ensure that quality welfare reform becomes a reality.

I would be happy to answer any questions that you or any member of the committee might have.

Thank you.

[Mr. Hill's prepared statement appears in the appendix.]

Senator MOYNIHAN. We thank you.

Let us hear from our next witness, Mr. Cove.

Mr. Cove, we welcome you.

Mr. COVE. Thank you.

STATEMENT OF PETER M. COVE, PRESIDENT, AMERICA WORKS OF NEW YORK, INC., AND AMERICA WORKS OF CONNECTICUT, INC., NEW YORK, NY

Mr. COVE. My name is Peter Cove, and I am the founder of America Works of New York and America Works of Connecticut, and I am representing America Works of New York which, until about a month ago, was called New York Works, Incorporated.

I want to acknowledge the committee's landmark legislation and give particular credit to you, Senator Moynihan. When I left this morning, my 3-year-old daughter Antonia said to me, "Don't talk to any strangers, and bring me home a treat." I feel that you are no stranger, though we have never met before, given what I have seen you do over the years, in terms of preparing us, finally, for the kind of legislation that we have.

We believe that the purpose of this Act is to stimulate new and creative ways of moving welfare recipients from relief rolls to self-supporting jobs. Beyond a doubt, its intent is not to put an end to the many innovative programs that have been started in the past 10 years.

My purpose in appearing today is to request a change in the Department of Health and Human Services' interpretation of the Work Supplementation Provisions of the Family Support Act. This was mentioned before by the person representing Orange County, and that is the specific issue that I would like to speak to.

Senator MOYNIHAN. Please. Good.

Mr. COVE. In that one—and I will refresh everyone's memory—only new jobs, as being interpreted by HHS, can be filled through Work Supplementation. It is this interpretation that we believe should be changed.

America Works in New York City and in Hartford, are private companies. They recruit, and train, and place welfare recipients with employers who hire them, following a trial period. During an internship of about 4 months, AFDC recipients work at that host company, also under their supervision, while remaining on our payroll. They do receive a payroll check each week.

Throughout the internship, America Works provides constant support to the worker and to the host company management if problems arise. This can mean providing day care or counseling a worker on punctuality and other good work habits. Essential here is the intervention of support services during the first crucial weeks of the new job. It often makes the difference between success and failure for an otherwise qualified AFDC recipient.

Following this trial period, successful workers—and about two-thirds of them are successful—are hired and become regular employees of the company.

Senator MOYNIHAN. About two-thirds?

Mr. COVE. About two-thirds. That is correct.

Senator MOYNIHAN. That is a pretty good range.

Mr. COVE. And I should mention, about 90 percent of those are there a year thereafter.

It should be noted here that the workers are not charged a fee for this service—in fact, they receive a paycheck, as I mentioned—nor is the host company charged for the workers it obtains. During the period of time on the trial period, if there is a union, even though the person is on our payroll, that individual becomes a member of the union if that is agreed upon between the union and the worker.

This arrangement affords all parties a win-win opportunity. For the private sector, America Works recruits AFDC recipients who reduce turnover. It provides try-before-you-buy hiring, with added personnel support to the workers, thus ensuring a higher rate of success. This also gives the private sector a risk-free means of accomplishing public good by reducing welfare dependency.

For the AFDC recipients, America Works provides temporary full-time work leading to permanent employment. It gives workers access to jobs in companies where they would likely not otherwise be interviewed or hired.

Further, it gives them the support for work-related problems from 6 to 7 months, and sometimes longer. And, very importantly, it keeps them in the welfare system during the weaning process, as they become familiar with the world of work and their new job requirements. If it should not work out, there is no gap in benefits, since they are still in the system while they are with us. This is a great incentive to potential workers who are ready, but who are fearful that failure in the job will result in months of lost benefits.

For government, benefits are substantial and risk-free. America Works is paid by the State only upon successful hiring of a worker by the host company following that 4-month internship. Even there, a portion of the total payment is held for 90 days, in New York, and 60 days, in Connecticut, after the 4-month internship period. This means that the AFDC recipient is recruited, is trained, is placed, supported, hired by the host company, and has been there for about 4 months before America Works receives any money from the State. Such performance-based contracts assure, perhaps for the first time in any employment program, the delivery of jobs before payment, and the person off of welfare or their grant substantially reduced.

The return on investment for the government in reduced welfare expenditures begins in about 6 months, with growing savings thereafter.

During the 4-month internship period, America Works receives Work Supplementation—otherwise called "grant diversion"—to offset a portion of the workers' wages. As well, the companies pay us, as they would pay a temporary agency, for our services of placing and supporting the worker. So, that support, which I have already said is crucial, is paid in part by the private sector. Without this, over 55 percent of the total cost of the employment program would have to come from the government. Instead, this year, private companies will contribute over $2 million of these costs.

The Family Support Act, under the new regulations, state that a person supported by Work Supplementation cannot "fill any established, unfilled position vacancy." The same prohibition has always existed in the CWEP program, the Community Work Experience Program, which appears to limit the use of the Work Supplementation to jobs that did not previously exist—in other words, only new jobs can be filled.

It is our belief that it was not the intent of Congress to hamstring the private sector, that it could not find creative ways in which to hire AFDC recipients. We suspect that this provision was inserted in CWEP to prohibit displacement of local public employees by federally-subsidized workers. We do not believe the provision was intended to bar the private sector from using Work Supplementation except in new jobs.

I have submitted my text, but I will summarize for you, very quickly, some of the issues we think are important in terms of not having this provision.

Senator MOYNIHAN. Take your time.

Mr. COVE. Thank you.

It is very difficult in the private sector to actually determine a "new" job. It is almost impossible, in fact. For example, if a company has 100 employees and shifts some openings to technical jobs, but maintains 100 employees, are those technical jobs new? In a three-person office, where the secretary leaves, and they redefine the job as "a typist," is that new? If a branch office shuts down in one area and opens up in another, are the jobs in the new office area new?

The private sector is a fluid, changing environment. Except in isolated cases, new jobs are quite difficult to identify—even sophisticated economists have trouble determining what is really new. And to put that on to the program provider makes it a very difficult endeavor, indeed.

The intent of the provision is to avoid displacement. We agree with that. I think that is something we can address through an agreement signed by the employer. The Department of Labor's On-The-Job-Training program has required similar agreements, and this program has operated in the private sector for many years. The HHS program should not be more restrictive than OJT, it seems to us.

In addition, one other point: In the America Works model, the employer pays hourly rates, similar to what a regular worker would earn. Therefore, they are not using the program to subsidize costs.

All America Workers join unions, as I mentioned, during the trial period.

In addition, there are significant advantages for the welfare recipients. As I mentioned, welfare recipients escape the catch-22 that results when they try to leave welfare. Many people on AFDC are afraid of getting a job because, if something goes wrong on the job, they will have difficulty getting back on welfare; delays could take months. During the four-month trial period in Work Supplementation, a recipient tries out a new job. If something doesn't work out, the recipient is immediately fully back on welfare. If it does work out, at the close of the trial period the recipient is happy to go off welfare and say good-bye to the system. No other program allows this trial period of working and receiving benefits without fear.

The additional funds for Work Supplementation allow the program operator to enhance support to the worker. In America Works' case, we hire support staff who guide, train, and counsel workers onsite, at the companies, daily. These support staff people handle 15 to 20 recipients and, in most cases, make the difference in their success. That two-thirds figure that I mentioned, Senator Moynihan, is in large part due to the support that we are able to give the line management and the worker on a day-to-day basis. Without that grant diversion, these services just could not be affordable.

[Pause.]

Senator MOYNIHAN. While you are finding your place, may I say to persons at the press table and elsewhere that we were not deliberately freezing you, and the heat has been turned on again. [Laughter.]

Mr. COVE. America Works respects the possibility that substandard work and displacement of the regular labor force could result from employing subsidized workers. The creative private sector model many of us operate is essentially a supported On-The-Job-Training model, using Work Supplementation. We ask the committee to protect the program, and we recommend to HHS that provisions used to prevent such abuses in OJT be applied to this model, and that it be exempt from the provision requiring only new jobs.

Thank you.

[Mr. Cove's prepared statement appears in the appendix.]

Senator MOYNIHAN. Well, good.

First of all, let us respond to Mr. Hill, saying you couldn't be more right about the statute. It is required to forbid displacement, to prevent displacement, and if it doesn't, and the regulations now don't, the regulations will. That is a commitment we made to your organization, and it was a legitimate one.

Mr. HILL. Thank you.

Senator MOYNIHAN. We want to see that the regulations reflect the intent of the law, and this is why we have a period for comment.

Mr. Cove, I think it is also true that we didn't want to see grant-diversion programs put at risk.

I see that Ms. Edwards was kind enough to stay behind a bit. Do you recognize the problem Mr. Cove describes? He referred to your testimony.

Ms. EDWARDS. Yes, sir. He was making the same point that we made in our testimony, that it appears there was confusion between CWEP prohibitions of displacement and OJT. In the OJT situation, what we are looking for is a training position, so that the person who is being trained will achieve his employee status at the end of that period of time.

Senator MOYNIHAN. Right. I see. All right. So you two people are talking about the same thing, and you have the same information, and you are from different sides of the country. That has a certain persuasive quality to it.

And these are private-sector jobs?

Mr. COVE. That is correct, Senator.

Senator MOYNIHAN. I know the issue of displacement in municipal employment does arise. If it is a union shop, people join the union?

Mr. COVE. That is correct.

Senator MOYNIHAN. I think you have a perfectly clear case, both of you.

We intended no displacement. The last thing in the world we wanted was that. It just must not happen. We are not going to solve one problem by creating another. And we are going to want members of the AFSCME to make this program work; and if, to make the program work, it is going to put them out of work, it involves them in a conflict, I think. It kind of spoils the day.

Senator MOYNIHAN. So, we will look at that issue. And you gave us specific proposals, of course.

All of you are now correspondents with this committee, this subcommittee. Consider yourself engaged with us until this process concludes in September. All right?

Mr. HILL. Thank you very much, Mr. Chairman.

Senator MOYNIHAN. Well, thank you, Mr. Hill, for coming down. And thank you, Mr. Cove.

Mr. COVE. We appreciate it.

Senator MOYNIHAN. We are learning things, and we are finding that there is a lot of agreement around here about what we want to do.

Did anybody from HHS show up yet?

[No response.]

Senator MOYNIHAN. Well, no.

In that case, we are going to resume our regular schedule. We have two more panels, and we are very happy to have them.

The first is Ms. Nancy Ebb, who is the Senior Staff Attorney of the Family Support Division—I don't know what that is—of the Children's Defense Fund; and Mr. Douglas Baird, who is the Executive Director of the Associated Day Care Services of Metropolitan Boston, and the Chair of the Child Welfare League of America, a most distinguished, venerable organization, if I may say.

Ms. Ebb, the way we handle these matters is the first person listed speaks first. But before you speak, tell me what the "Family Support Division" is. Is that a new division to look after this legislation?

Ms. EBB. The Family Support Division at the Children's Defense Fund, Senator, contains many of those issues near and dear to your heart—child support, income support, child care, youth employment and training issues.

Senator MOYNIHAN. Aha. Well, we welcome you. We put your testimony in the record as if read, and you may proceed to summarize it and extemporize as you wish.

STATEMENT OF NANCY EBB, SENIOR STAFF ATTORNEY, FAMILY SUPPORT DIVISION, CHILDREN'S DEFENSE FUND, WASHINGTON, DC

Ms. EBB. Thank you, Senator.

We appreciate the opportunity to testify today on the proposed regulations.

The Children's Defense Fund followed closely Congress's consideration of the Family Support Act, and we continue to work intensively on State implementation efforts.

Senator MOYNIHAN. Let us see—what was your final position on the Act? You opposed it, did you not?

Ms. EBB. Yes, we did, sir.

Senator MOYNIHAN. Yes, I knew you did, but I thought we would get the record clear. The Children's Defense Fund opposed the welfare legislation that passed the Congress.

Ms. EBB. That is correct. I should say, however, Senator, that we believe many of the provisions as finally enacted were extraordinarily constructive ones. Chief among those were the child care——

Senator MOYNIHAN. But not good enough. Not pure enough.

Ms. EBB. I would hope we would never shy away from saying that what we are doing for poor children is inadequate.

Senator MOYNIHAN. And you would always rather do nothing than do what isn't enough, is that it?

Ms. EBB. No, certainly not,sir.

Senator MOYNIHAN. Would you rather we had not passed the bill last year?

Ms. EBB. I believe the bill contains carefully weighed provisions that begin to address many——

Senator MOYNIHAN. Then, why did you oppose it?

Ms. EBB. We believed it was appropriate at that time to do so. The legislation having passed, we are doing our utmost to work with you, with HHS, and with State administrators to make it be the most positive program we possibly can have for poor children, and we recognize the promise of that legislation.

Senator MOYNIHAN. Go ahead. I have been working at this for 25 years.

Ms. EBB. We believe that the child care provisions, particularly, are extraordinarily constructive ones, and we have serious concerns with the way the proposed regulations cut back on what Congress created in this arena.

Senator MOYNIHAN. What do you mean? Do you mean the statute is better than the regulations?

Ms. EBB. Considerably, sir.

Senator MOYNIHAN. I thought you thought the statute was terrible.

Ms. EBB. We always thought the statute was good in the area of child care and child support.

Senator MOYNIHAN. I see. I never heard you say that.

Ms. EBB. Let me assure you of it today, in that case, sir.

Senator MOYNIHAN. Good. Better late than never.

Ms. EBB. We are concerned particularly about how the regulations undercut the guarantee of child care set forth in the Act.

During its consideration of the Family Support Act, Congress heard repeatedly about the critical need for child care if efforts to make families self-sufficient were to be successful.

Congress responded by creating a strong guarantee for child care in the Act, and the statute clearly states that child care is guaranteed for two groups of individuals: those who need child care to engage in employment, and those for whom child care is necessary to engage in education or training efforts. This guarantee is stated as an entitlement.

States must guarantee care for each family or individual. Certainly, there are instances where that guarantee is limited; for example, in the employment context, the State must make a determination that child care is necessary in order for the family to accept or retain employment. Nevertheless, within those confines outlined in the statute, the guarantee is, under the statute, supposed to be available for each family that meets the statutory criteria.

The proposed regulations gut this promise of care. The Preamble describes the guarantee as a "conditional entitlement," not a right. The Preamble makes clear that States can limit the guarantee according to States' appropriation ceilings, and that States can avoid their responsibilities under the statute by failing to allocate sufficient resources to meet child care needs.

The proposed regulations reflect the Preamble's limited reading of the guarantee: The State plan, under the regulations, must describe "the priorities to be applied in determining when needed child care will be guaranteed."

If the guarantee were interpreted as the statute intended, there would be no need to establish such priorities, since each family eligible for the care would receive it.

The proposed regulations guarantee care, therefore, to far fewer individuals than we believe Congress intended. It is clear, under the regulations, that States must provide child care to mandatory participants, or excuse their participation, and it is clear under the regulations that States must take steps to make sufficient child care available to meet participation rates. However, that is the extent of the guarantee as described under the regulations.

For volunteers, even those who fall within the target groups Congress singled out as important to serve, there is no assurance that child care will be provided. We know, from the Massachusetts and the California experience, that volunteers will come forward if child care is made available to them. However, the regulations restrict the opportunities to provide child care to those very populations, and we believe that effect is devastating.

In accord with HHS's limited reading of the guarantee, HHS further limits families' due process rights in the child care arena. Because HHS believes that child care for AFDC recipients is only a conditional entitlement, it does not guarantee a prior hearing before child care benefits are reduced, terminated, or the method of delivering those benefits is altered.

When Congress enacted the JOBS program, it constructed a requirement that States must have some process for resolving JOBS-related conflicts, and said specifically that this process had to comport with the due process requirements of *Goldberg* v. *Kelly*. The centerpiece of *Goldberg* is a requirement that, where subsistence benefits are threatened with termination, there must be a prior opportunity to contest that. Nevertheless, that opportunity is denied.

The regulations also restrict States' flexibility to construct a strong child care program by limiting market rate to the 75th percentile, which in many States is simply inadequate to attract the necessary supply of providers to meet the need. The limit also inhibits the States' ability to provide appropriate care for special populations—for example, children of teen parents, who may need more costly care; but that care may not been affordable under the 75th percentile restriction.

And it is more restrictive than State policy in Washington State, as well as in California, where the State provides up to 90 percent of local market rate at this time.

Finally, the regulations improperly restrict access to transitional care, both by requiring a reapplication, which was not required under the statute, and by denying retroactive benefits. The combination of these, we believe, will result in the denial of 12 months of transitional benefits to many families who meet the statutory eligibility criteria, and limitation of those benefits to many other families who do not immediately apply.

We know already that there are problems with the ability to obtain transitional child care benefits, even in those States that currently provide State-funded transitional benefits. In California, for example, preliminary data on the GAIN program indicate that, while 68 percent of GAIN volunteers receive State-assisted child care while they are on the AFDC program, only 24 percent of those volunteers who leave the program due to employment receive State subsidies.

Therefore, there is a very troubling disparity, even given this guarantee in California of transitional benefits, between the number of families who appear to be eligible for transitional benefits and those who actually receive it. The transitional regulations, we believe, will exacerbate this trend on the national level.

We believe that the final regulations should not require reapplication. They should require that AFDC families receiving child care be notified, in advance, if the form of payment will change once they begin receiving transitional benefit; that there be no gap in child care assistance, as families move from AFDC-linked child care to the transitional program; and that families leaving AFDC, who have not been receiving child care assistance while they were on the program, receive immediate notice of the opportunity to receive such transitional benefits, and that those benefits begin with the month in which they become ineligible for AFDC.

Thank you.

[Ms. Ebb's prepared statement appears in the appendix.]

Senator MOYNIHAN. Thank you.

And now we hear from Mr. Douglas Baird, who represents the venerable Associated Day Care program of Boston, and the Child Welfare League.

The Child Welfare League also opposed our legislation, I believe.

Mr. BAIRD. That is correct.

Senator MOYNIHAN. Well, go right ahead.

STATEMENT OF MR. DOUGLAS S. BAIRD, EXECUTIVE DIRECTOR, ASSOCIATED DAY CARE SERVICES OF METROPOLITAN BOSTON, AND CHAIR, CHILD WELFARE LEAGUE OF AMERICA, CHILD DAY CARE TASK FORCE, BOSTON, MA

Mr. BAIRD. Good afternoon, Chairman Moynihan.

My name is Douglas Baird. I am Chief Executive Officer of Associated Day Care Services of Metropolitan Boston. We are New England's oldest, largest charitable child day care agency and have provided child day care through our member programs over the last century.

Thank you very much for taking the time today to listen to me and to hold these important oversight hearings.

Today, Associated Day Care Services serves essentially the same population that it served 100 years ago. The difference is that they come from different parts of America and different parts of the world. But, essentially, these are people who come to the United States looking for work, looking for the opportunity to become productive Americans.

We serve 500 families and their children, today, in family day care homes, in day care centers, in public housing sites, in multilingual and multiethnic communities.

We also have been participating with the Commonwealth of Massachusetts in the ET program since its inception. Since ET started in 1983, 57,000 recipients have been placed in unsubsidized jobs. Three-quarters of them are still off welfare. ET in Massachusetts has saved taxpayers $280 million. That is after the cost of the care and the cost of the programming have been accounted for.

I would like to focus my remarks today on two very specific items:

One is the matters in the regulations that concern the supply of child care. There are four items, taken together, that make it very difficult for us to develop care:

One, there is a guarantee that care is to be there for eligible families, but only if the resource are available. The regulations further proscribe Federal financial participation for the costs associated with resource development, and then limit the reimbursement to the 75th percentile of market rates. These four component parts might better be written as "participant, beware."

Massachusetts' experience with ET has been instructive. ET choices began at exactly the same time that we began our Massachusetts Governor's Day Care Partnership, which was an attempt to build and enhance our child day care system. So we did the two things at the same time.

There have been periodic as well as longer-term difficulties in responding to the voluntary program of ET. There have been periods and parts of the State and kinds of care that we simply have not been able to provide to those people who, on a voluntary basis, would be applicants to become ET graduates. But we do that at the same time that we reimburse at up to the 100-percent level of local cost.

States which will be implementing, for the first time, a Family Support Act program of JOBS support services and child care will surely experience a supply problem in child care. Barriers to the expansion of supply will limit the number of participants and limit the success of the program.

Depending upon informal arrangements and free care in the late 1980's is a bit like trying to romance blood from a stone. The very same changes in family life patterns and workforce demand that have led to an unprecedented need in child care services throughout the nation impact all economic classes.

The supply of informal and relative care for low-income families is no more available than it is for upper- and middle-income families. While informal and free care may be a part, a small part, of the solution, it will not be a significant part; and depending upon it will frustrate both public authorities and participants and limit the ultimate success of this Act.

Several people have commented to you about the 75th percentiie. I would simply point out that limiting the reimbursement levels to the 75th percentile could be turned around, and could be described as "selecting from the bottom three-quarters of the class of child care." It doesn't make eminent sense to me.

It may well be thought that for the bottom quartile of child care it be difficult to be assured that basic health and safety standards will be met. But there is no such limitation placed on that bottom quartile.

The Act regulations use the term "reasonable balance" when they describe this 75th quartile. They want to assure that there is a reasonable balance between accountability and accessibility, but from the vantage point of children, there is no reasonable balance with regard to the nature of care.

I would like, if I could, to simply talk about one more item, Senator.

Senator MOYNIHAN. Please do.

Mr. BAIRD. Emancipation by regulation of low-income 13-year-olds into under-regulated, unsupervised communities, struggling with the plague of crack, and having babies, is dangerous and inappropriate in most of America's urban centers. At the same time that we are declaring a war on drug abuse, the regulations propose to deliver a new market to the drug dealers. I would urge you to allow the States and allow localities to provide care to 13- and 14-year-olds as need be.

I want to thank you for inviting me to appear before your committee today. If there are any questions, I would be pleased to answer them.

Senator MOYNIHAN. We thank you both. I believe that is a very close call, the question of 13-year-olds and 14-year-olds. I much agree.

In your testimony you state that the original legislation—speaking of the 1935 Social Security Act—specified that AFDC was for children with no fathers to support them. That is not quite the case. It was assumed there weren't, but there was no specific provision in the law; so, the law has always provided that, where there were parents, they should provide support.

But the presumption that fathers weren't there continued for half a century—that is the way institutions behave.

Thank you very much, both of you.

Mr. BAIRD. Thank you.

Senator **Moynihan**. And now, our final panel.

I regret that we perhaps over-scheduled, which is something campaigns do; but we now have two very able and concerned Washington personalities, Mr. Robert Greenstein, who is Executive Director of the Center on Budget and Policy Priorities; and Mr. Mark Greenberg, who is the Senior Staff Attorney of the Center for Law and Social Policy.

Mr. Greenstein, you are first. If you would, just proceed. We have your testimony, and we will put it in the record as if read.

STATEMENT OF ROBERT GREENSTEIN, EXECUTIVE DIRECTOR, CENTER ON BUDGET AND POLICY PRIORITIES, WASHINGTON, DC

Mr. **Greenstein**. Thank you, Mr. Chairman, and I appreciate the opportunity to be here today.

Mr. Chairman, as you know, I think a cornerstone of the Family Support Act was the principle that States should be accorded the flexibility to design well-targeted and cost-effective JOBS programs, and the ACT also reflects a strong congressional concern—I know a concern of yours, in particular—that initiatives be adequately focused on those recipients who have greater barriers to employment and are likely to remain on welfare for long stretches of time, unless effectively assisted to achieve self-sufficiency.

Unfortunately, our analysis of the proposed regulations indicates that they are likely, in a number of ways, to impede rather than facilitate the achievement of these two important objectives.

In many areas the regulations unduly restrict State flexibility; they effectively require many States to spend some of their employment and training resources inefficiently; they force States to divert substantial amounts of resources into new tracking and reporting systems that would greatly increase paperwork and diminish the amount of funds available for the actual provision of services.

What is key is that those outcomes would make it more difficult for States to provide the intensive treatments often needed to break the welfare cycle, and move the more intractable long-term cases off the welfare rolls and onto payrolls.

I am afraid the regulations represent an example of the not so infrequent tendency of Federal bureaucracies to distrust and heavily over-regulate State and local governments in ways that can stifle initiative——

Senator **Moynihan**. Which, in this case, was exactly what is not called for. The Federal Government was utterly derelict in a legislative mandate of 50 years' standing, and it was the States that came along and said they would do something. Then, suddenly, the Federal Government is acting like, "Ah, we caught you."

Mr. **Greenstein**. Precisely. I think the irony is, the State initiatives led, in many ways, to the passage of the Act; and now, a number of these very State initiatives would not meet the rigid standards of these regulations.

In fact, Mr. Chairman, I fear that in some States already operating major programs, the regulation could force alterations of programs in ways that could actually decrease their effectiveness in combating long-term dependency.

Of particular concern are the proposed hours requirements, which I am sure you have heard about throughout the morning.

Senator MOYNIHAN. We have been hearing about them all morning, yes.

Mr. GREENSTEIN. They run counter to the lessons we have learned from State experience, and from the research. Research by MDRC and by scholars, such as David Ellwood and Mary Jo Bane, make it clear that substantial numbers of recipients leave the rolls quickly on their own, and for such recipients, welfare-to-work programs generally do not have large impacts or yield large savings. At the same time, the research tells us there is a significant number of recipients who remain on the rolls year after year, have significant barriers to employment, less education, and less prior work experience.

As Judy Gueron noted earlier, the non-intensive State programs, which have predominated throughout the eighties, have been found to have little or no impact on that group.

By contrast, the Supported Work Demonstration a number of years earlier, which was much more intensive, and expensive, did prove successful for that group.

Also of interest, recent GAO studies on the Job Training Partnership Act have found that intensive interventions there yielded more impressive results for hard-to-enroll JTPA enrollees.

Senator MOYNIHAN. I am going to interrupt you, because you are eminently interruptable—you pick up your thoughts thereafter without any great difficulty.

The Labor Department is moving in that direction in the new proposals on JPTA, are they not?

Mr. GREENSTEIN. Precisely. I think there is a clear conflict between where they are going and what the impact of these rules for the Family Support Act would be.

Senator MOYNIHAN. The Labor Department is picking up this research, and this experience, and we have our GAIN people still in the room—Mr. Boyle and Ms. Edwards. That is their experience, I think. I see you nod.

Is that right, sir?

Yes.

Well, you know, we shouldn't be surprised. I don't want to be in any way dismissive, but why should HHS know anything about this subject? It has avoided it for 50 years.

Mr. GREENSTEIN. For some of the research in question here, I think they did well. In fact, I was struck by reading Constance Horner's testimony; a number of these same principles appear in the testimony: that of State flexibility, and of targeting on the people who are long-term to a greater degree. It made me wonder whether the people who wrote the testimony had actually read the regulations.

I think another key fact was mentioned by Judy Gueron earlier today, that the widely-acclaimed State initiatives that led to the JOBS legislation generally provide fewer than 20 hours a week of activity.

When you put all of these pieces together, what they tell us is that requiring States to provide 20 hours a week for those recipients likely to find jobs on their own and to cycle off welfare quickly, even in the absence of a program, is an inefficient use of limited resources. Many of those recipients need nothing more than a limited program to assist in locating employment, such as a modest job search program.

By the same token, the research findings indicate, for the recipients likely to become long-term dependents, far more intensive interventions are likely to be needed; but—and this is the key—in many States the resources to conduct these more intensive interventions are not likely to be available if resources are squandered by administering a 20-hour requirement for job-ready participants who don't need that level of activity.

Moreover, if recipients are unnecessarily required to engage in a 20-hour component when they don't need it, States will also have to spend more money providing more child care for some recipients than should be needed.

Adding to the problem would be the need to establish complex tracking and reporting requirements. Creating and administering those systems would be expensive. Each additional dollar spent on tracking, reporting, and filing reports on hours of participation would be money not spent on the provision of education, training, and work services.

In short, the rigidity of the hours requirement threatens to shift the focus of JOBS from one of enabling States to design responsive and cost-effective programs to forcing States into predetermined Federal molds to meet rather arbitrary Federal standards.

I believe the hours requirements also confuse the duration of an activity with its quality and effectiveness. These standards also seem to regard recipients in very different circumstances and possessing very different levels of skills and work experience as though their needs and situations were largely the same. The likely result of these standards would be to have many States design a program entailing the same number of hours of activity for a recipient who is job-ready as for a recipient who has significant employment barriers and needs intensive services before she can become employable.

I am also worried by the likelihood that some States would find it necessary to develop "filler" activities to raise a participant's level of hours up to 20—further inefficiency in that.

Although HHS contends that a standardized hours requirement is needed to prevent States from "gaming the system" with meaningless activities, the rule is likely to result in just what it seeks to prevent. Each time a State adds hours to the participation level of a recipient, simply to comply with an arbitrary Federal hours standard, valuable State and Federal resources are used poorly.

The proposed hours requirement poses particular problems for serving mothers with young children, a key group. When Congress expanded work requirements to mothers with children under six, you limited the requirement to 20 hours a week, in recognition of the fact that a full-time work requirement can't be imposed on a mother with a child that young. What HHS has done in the regulations is effectively to turn your maximum 20 hour requirement into a minimum requirement, because anything less than 20 wouldn't count toward meeting the standards.

Now, the problem with this is that, for some of these mothers, something may be feasible, but something short of 20 hours. To comply with the 20-hour requirement, it would require some of those mothers to be apart from their young children far more than 20 hours, when you add in transportation time to the job site plus transportation time to the child care site.

Or, consider the situation where a State has an opportunity to put a child in a developmentally enriched Head Start program for morning hours, and enroll the mother in JOBS during that period. Making that fit might entail something less than 20 hours; but if it was less than 20 hours, it wouldn't count. What I think you would run into here is that, for some of these mothers for whom less than 20 hours was appropriate, the effective choice would be 20 hours or zero. In some cases you would end up getting zero. We would be where we are now.

Compounding those problems is the rigid provision in the regulation that participation in on-the-job training and work supplementation wouldn't count—wouldn't count—toward the participation standards, unless it were full-time. Now, since the work requirement on the mothers with the young children is half-time, what they have done is to effectively preclude on-the-job training and work supplementation for these women, even when the State finds that such activities are those most appropriate to help them attain self-sufficiency.

Further problems come up when you get to two-parent families. The law has a 16-hour requirement. What the regulations say is, "That's fine for the two-parent work standard, but we are setting up this 20-hour standard as well; so it doesn't count towards the overall participation standards, unless you add 4 hours of additional activity."

Now, given the abundance of research showing that, except for some low-intensity job search efforts, welfare-to-work programs generally have little impact on increasing net employment rates among two-parent families, since they tend to leave the rolls quickly and find jobs on their own. Adding 4 hours just to meet this requirement is likely to prove inefficient, and it is one more way where resources for the long-term welfare recipients would be reduced.

As a final observation on this hours question, I would like to note that the experience of the Food Stamp Employment and Training Program may be instructive. It was enacted in 1985 and, in promulgating regs in 1986, the Agriculture Department faced the same kinds of concerns, the concerns which the Agriculture Committees had expressed, that they wanted to be sure "participation" was in reality and not just on paper.

But look at how USDA dealt with that: It required States to demonstrate, in their State, plans that each education, training, or work component was adequate. To meet that test, it generally required that a component involve activity of at least 12 hours a month for 2 months, but made clear that, once the component was approved, no tracking of individual hours would be required. The approach was designed to minimize paperwork and ensure that at least a minimum level of activity was provided that could assure that compliance wasn't just on paper. But at the same time it was modest enough to allow low-cost activities for the most job-ready participants.

USDA—and this is in 1986, during the Reagan administration. USDA wrote:

"We recognize that the quality of a component cannot be determined by the number of hours a participant spends engaged in the activity."

Now, if these regulations, promulgated in the Reagan administration, are appropriate for a program such as food stamps—where the benefits and the savings are 100-percent Federal—why ought it not to be satisfactory in AFDC, where States have a direct financial stake in moving people into self-sufficiency, and proved, as you have noted, that they have gotten ahead of the Federal Government on this issue?

A few final comments, Mr. Chairman.

You have heard a lot about the child care provisions. I think these are further examples of ways in which overly-prescriptive Federal rules can impede rather than enable States to manage effective programs.

We know that the law requires that States guarantee the provision of child care services; but, then the regulations turn around and stipulate that State efforts to recruit and train child care providers—so an adequate supply of child care is available—are to be treated as "unallowable State administrative costs for which no Federal matching funds will be provided."

Similarly, as you have heard, if the only way a State can find an adequate amount of child care is to use providers whose charges exceed the 75th percentile for fees, Federal matching funds would again be cut off.

Finally, in the child care area, I would like to express particular concern about the proposal in the regulations that a new application for child care be submitted whenever a recipient works her way off AFDC.

Mr. Chairman, as you know, in the late 1970's I had the privilege of administering the Food Stamp Program. When we came in, we found that a number of States had procedures under which families that left AFDC were automatically cut off food stamps and made to reapply, even if they were continuously eligible. When we studied it, we found that these requirements were causing many eligible families either to lose food stamps altogether or to lose them for a period of time, until they reapplied, returned to the welfare office, completed a new application, and waited for it to be processed. So, we remedied those problems, and we required that there not be a new application, as long as the household was continuously eligible.

The same principle ought to apply here. There is no need for a new application, as long as the mother who works her way off of welfare remains eligible for child care.

I am persuaded that if the proposed regulatory requirement for a new application is not dropped in the final rules, substantial numbers of mothers who have worked their way off AFDC will lose their child care for a period of time. Needless to say, that could, in some cases, result in losing a job, and then returning right back to the welfare rolls, if the child care arrangements fell through in the interim.

Finally, you have raised questions about the basic literacy and the eighth-grade standard in the regulations.

Senator **MOYNIHAN**. Yes.

Mr. **GREENSTEIN**. Let me say that we are especially concerned that that will suggest to States the use of an inadequate benchmark for determining when to provide educational services.

A few statistics, Mr. Chairman:

In 1987, close to half, 46 percent, of young families headed by high school dropouts lived in poverty—46 percent. By comparison, 1 in 5, 20 percent, of the young families headed by high school graduates who didn't attend college lived in poverty—a rate less than half as high.

These figures are even more alarming for families headed by young women. This is an extraordinary Census figure, Mr. Chairman: In 1987, nearly 9 out of 10—89 percent—of the children in families headed by young women under the age of 30 who hadn't graduated from high school lived in poverty. And the median income of families headed by an eighth-grade graduate was less than half the median income of families headed by a high school graduate.

Senator **MOYNIHAN**. Can you give us those data again? They aren't in your testimony, are they?

Mr. **GREENSTEIN**. They are. They are on page 10 of the testimony.

Senator **MOYNIHAN**. I am sorry. I am still here at that "prescriptive Federal rules." Just one second.

[Pause.]

Sanator **MOYNIHAN**. Let us see—89 percent of the children "in families headed by young women under the age of 30 who had not graduated from high school lived in poverty."

Well, we don't need to look very far to know where our problem is, do we?

Mr. **GREENSTEIN**. I think what this suggests is that eighth grade is not going to do the trick; we need to shoot higher.

In Constance Horner's testimony, she mentions that the labor market demands higher levels of skills than ever before. This is true, and eighth grade is generally not what the market demands.

Overall, reviewing the regulations in their entirety, it appears that the spirit and the intent of the law has been dampened. You and other members of Congress crafted the legislation, authorized new funding for meaningful education and training initiatives to begin to address the serious educational and skill deficits of the welfare population. You sought to step up to the daunting challenge of reducing persistent poverty and long-term dependency.

That is a critically important task, and one that is not easy to achieve. Unfortunately, the proposed regulations would make the realization of those goals more difficult, and they would make it more likely that the Family Support Act would eventually come to be regarded as another well-intentioned piece of legislation that turned out to yield disappointing results.

Mr. Chairman, that is not what you want or what we want, but I think we all need to work together to get major changes made in these regulations, to avoid that very unfortunate outcome.

Senator MOYNIHAN. It is what we are going to get if we don't do something. And what an irony. I mean, here comes along a real sort of federalist response, exactly what we have all talked about: the States as laboratories, the States had the energy, and the Governors seized the moment, and Congress responded. And then, suddenly, HHS acts like they know something about this subject, though they might not have cared anything about it previously, and they start telling the States what they may and may not do. And the whole thing will come down to the manner in which our new law is implemented.

Let us hear from our final, very patient, Mark Greenberg.

[Mr. Greenstein's prepared statement appears in the appendix.]

STATEMENT OF MARK GREENBERG, SENIOR STAFF ATTORNEY, CENTER FOR LAW AND SOCIAL POLICY, WASHINGTON, DC

Mr. GREENBERG. Thank you, Mr. Chairman.

I appreciate having an opportunity to appear here this morning.

I share the concerns that have been raised about participation rates and child care; but, rather than repeating those points, I would like to talk about three different areas: How the regulations treat volunteers, how they deal with problems in program participation, and then how they treat educational requirements for children under 18.

To begin with volunteers:

Many recipients, as you know, don't need to be required to participate in an education or training program; they will gladly participate if they are given an opportunity to do so.

The Family Support Act recognized that by providing a number of protections for people who volunteer for jobs. Unfortunately, the proposed regulations undercut every one of those protections.

The Act had said that within the Federal target groups, those viewed as most in need of services, States must give priority to those who volunteer to participate. The regulations repeat that provision, but then the Preamble gives it a completely different meaning. The Preamble says that States can make decisions about services in light of participation rates and State goals and available resources.

An example about the participation rates shows the problem that this poses:

Suppose there is a recipient who is in a target group because she has received AFDC for 3 years; but she has a 2-year-old child, so she is exempt. She wants to participate, and she wants to participate for 15 hours a week as a volunteer.

Senator MOYNIHAN. Yes.

Mr. GREENBERG. In that situation, what the Preamble suggests is that the State can say, "Because you won't participate at our 20-hour level, we won't take you into our program." So, it is putting a higher priority on the definition of "participation" than actually getting some participation.

Senator MOYNIHAN. Than responding to opportunities when they appear.

Mr. GREENBERG. That is right.

Now, unfortunately, the regulations go even further than that, because they limit support services for volunteers. The Act says that for any individual who is participating in JOBS, the State is to provide transportation and supportive services necessary for participation. The proposed regulations, instead, limit that right to services to those who are required to participate.

Similarly, on the child care guarantee, the Act framed the child care guarantee as applying to anyone who is satisfactorily participating in an approved education and training program, including people participating in JOBS, and others.

But the Preamble says States only must have sufficient child care for those required to participate in the program.

Now, as a practical matter, to take someone with a 2-year-old child and say she is welcome to participate, but it has got to be at least 20 hours a week, and the State won't provide any child care, is really the same as saying, "There is no room for you in this program." That wasn't the result that Congress wanted, and it wasn't the way the legislation was written.

Senator MOYNIHAN. No, it was not the result the Congress wanted.

Mr. GREENBERG. Unfortunately, this is what is allowed under the regulations.

Second, let me raise some concerns about the way the regulations treat problems in program participation, because in this area the HHS leaves to the States virtually unrestricted discretion in the sanction and dispute process.

The Act says that States have to have a conciliation procedure to resolve disputes about program participation. It doesn't define that conciliation process. Unfortunately, the regulations don't, either. They just say the State has to have one, and leave it completely up to the State.

On the issue of "good cause," when there are problems around program participation, the Act didn't give a complete listing of "good cause" definitions, but presumably envisioned that HHS would set minimum standards in the regulations. Instead, HHS just leaves it up to each State to say whatever it wants to do on "good cause."

Now, surely, a number of States are going to develop their own thorough conciliation procedures and their own definitions of "good cause" in, hopefully, a positive way. But the reason to have Federal regulations is so there will be minimum procedural safeguards in all States. Unfortunately, these regulations don't do that.

On sanctions, it appears that there is a real conflict with the statute. The statute says that, in the case of a first sanction, the sanction continues until the failure to comply ceases. The regulations, instead, say that in the case of a first sanction, the State can continue that sanction until the person has been participating for 2 weeks—in other words, until 2 weeks after the failure to comply ceases. This is simply a barrier to people getting back into the program. There is no basis for it in the statute.

Let me move to the third area of concern, and that is educational requirements for recipients under the age of 18. In this area, also, I think the proposed regulations are contrary to the statute in a couple of ways.

The Act says that for custodial parents under 20 who haven't completed high school or the equivalent, that they have to participate in education, subject to State resources and program availability. But the Act also says that States have the flexibility to exempt those under 18 from the requirements, under criteria to be developed in accordances with HHS regulations.

Unfortunately, the proposed regulations effectively nullify this provision. What they say is that if a State exempts a custodial parent under 18 from mandatory school attendance, the State has to require another educational activity.

Blanket required mandatory activities for those under 18 seems inconsistent with what Congress did. The issue here isn't whether these young people should get an education, it is: What is the best approach towards getting that result?

In recent years, some States have moved in the direction of mandatory school attendance requirements for AFDC recipients, but there is no consensus on whether this is the best approach as a way of assuring education for them. If the school can't provide flexible scheduling, or an appropriate curriculum, or necessary supportive services, just saying "You have got to go back to school, or your grant will be cut off" may compound the problem and may lead to a permanently problematic relationship between the individual and education.

Similarly, in that situation, if teachers and administrators now filter all of their educational judgments based upon special rules and expectations for AFDC children, that may cause other problems. And there is a real question as to whether just reducing someone's grant because they are not in school is in fact going to affect behavior in the way one wants to do.

In implementing the Act, some States may choose to go this route; but other States will surely want to explore different routes towards trying to deliver education for young parents, and they will want to rely upon voluntary and enriched programs, rather than simply saying "You have got to go back to school, or your grant is cut off."

The Act had envisioned that States were going to have that flexibility. Unfortunately, the regulations bar them from it.

Let me make one final point of concern about the regulations:

Under current AFDC regulations, States are prohibited from denying AFDC to a child under 18 because the child isn't making satisfactory grades. HHS wants to repeal this provision, and says that repeal is consistent with congressional concerns about school attendance.

There is a big difference between school attendance and grades. If a child is attending school and making her best efforts, but making low grades, it makes sense to figure out what the problem is, to reassess her needs, to identify what sort of services she needs. But Congress never suggested, in that situation, that it makes sense to cut off her subsistence income because her grades are low. That proposed regulation repeal seems flatly illegal and a very bad idea, and certainly not something that was suggested by the Family Support Act.

Senator **Moynihan**. Not at all. Yes, that was one that really got me. If you are going to school, and if your grades are poor, the question is how do we pull up your grades.

Mr. **Greenberg**. It seems to be going in the absolute opposite direction from what Congress would have wanted in that situation.

In closing, I appreciate the open process HHS has used in seeking input as it has been developing its regulations; but in these areas, and in the others that you have heard this morning, they really need adjustment as they move to final regulations.

Senator **Moynihan**. Obviously.

[Mr. Greenberg's prepared statement appears in the appendix.]

Senator **Moynihan**. I am so glad we had this hearing. I am going to ask you and Mr. Greenstein to sit down and think about what you would propose as an alternative to the proposed participation rates. Would you do that? Give some thought to how you would like to handle it?

Obviously, Constance Horner is going to listen to us. I think the way the Labor Department is moving, and HHS, is of import.

We thank you very much—not just for your testimony but for the lives you have chosen to live.

It is not easy to sit down here and just work away, as you do, with not much satisfaction, particularly because you choose not to be bomb-throwers. And every so often something comes along that is in fact good enough for you, and you will accept the less-than-perfect if it is better than what we've got. Apparently such work does not provide much psychic satisfaction to people in the advocacy world.

Again, thank you both.

Did you want to say something, sir, in closing?

Mr. **Greenstein**. No, Senator.

Senator **Moynihan**. We will stand in recess until 2:00, when Governor Castle, our opening witness, will appear.

[Whereupon, at 1:14 p.m., the hearing was recessed.]

[After Recess]

Senator **Moynihan**. A very good afternoon to our guests and to our most distinguished final witness in this oversight hearing of the Subcommittee on Social Security and Family Policy.

This hearing has been called to inquire into and get responses to the regulations that have been now issued by the Department of Health and Human Services for the implementation of the Family Support Act, and which are subject to revision, before final publication in October.

We wanted to make clear our view that it is the implementation at the State level where the outcome of this otherwise epic effort will be determined; I mean, it will have changed things, or it will have not.

We end where we had meant to begin, with the representative of the Governors, Hon. Michael N. Castle, Governor of Delaware, who is Chairman of the committee of the Governors' conference which spearheaded the proposal, which—with the usual variations that come with the legislative process—the Congress passed and the

President signed, on an occasion when you were very much present, sir.

You were to have begun this morning but could not be here. As I say, all the television—I am kidding—has gone, but you are nonetheless welcome. We want to hear what you think, what the Governors think, because that is what we think.

STATEMENT OF HON. MICHAEL N. CASTLE, GOVERNOR, STATE OF DELAWARE, TESTIFYING ON BEHALF OF THE NATIONAL GOVERNORS' ASSOCIATION

Governor CASTLE. Thank you very much, Mr. Chairman, and good afternoon. I am delighted to be here. Maybe without the glare of television, we can get more done, anyhow.

Let me just say that Alicia Smith, who has been devising this and working with us, and whom you have gotten to know, has advised me that we are preparing a point-by-point critique, which will be available in a couple of weeks, beyond the points which I am going to touch on here today.

I was thinking the other day about welfare reform, and about the fact that we spent nearly 3 years convincing everyone who had the power to say "no" to say "yes," instead—"yes" to the most significant proposal for public assistance in half a century.

It wasn't easy. Welfare reform was declared dead at least once, and it may well have been dead had it not been for your efforts and your support, Mr. Chairman, and we can't thank you enough for that, sir.

Senator MOYNIHAN. Thank you.

Governor CASTLE. We succeeded because of you and your colleagues, and because you were unwilling to allow the great need for change to be forgotten or ignored.

Unfortunately, it seems now that the historic reform of the American welfare system is about to run aground on the submerged rocks of bureaucracy.

This undertaking, which was supported by the Governors of the nation, which won passage in both Houses of Congress, and which was signed into law by the President last year, apparently has not met with the approval of those responsible for drafting regulations to implement the Family Support Act of 1988.

In fact, the draft regulations published by the Department of Health and Human Services, recently, seem designed expressly to prohibit the kind of daring and innovative reforms at the State level that served as a model for the Federal law. Why? Because the Department is afraid the States will employ underhanded methods and sleight of hand to obtain Federal funds. As they put it, they are afraid the States will gain the program.

Having failed to convince the Congress, the White House, or the Governors of the 50 States to agree to unrealistic participation rates while the bill was being negotiated, they are using the regulations to raise the rates unilaterally. They are systematically eliminating the flexibility so important to the States in developing innovative approaches to welfare reform and to helping people break free of welfare dependency once and for all.

As you know, the National Governors' Association worked diligently with the Congress and the White House to craft a law that encompassed the best ideas and innovations developed by the States about how to move our welfare clients from dependency to self-sufficiency. The essential tenet of NGA policy, and one which is clearly encompassed in the Family Support Act, is that, if we are going to reduce childhood poverty, increase the preparedness of our current and future workforce, and secure our common economic future, then we must transform this income-maintenance system, with its minor work component, into a program that focuses on education, training, and employment for our most disadvantaged citizens.

Our goal and our vision of how to reach that goal have not changed; but the path to that goal is being strewn with obstacles in the form of the recently-published proposed regulations for the Jobs Opportunities and Basic Skills Training Program, or JOBS, and related support services of the Family Support Act.

The final shape of these regulations is of critical concern to the Governors and their States. The regulations can either provide us with the opportunity to run our programs in an efficient and effective way, or they can entangle the States in bureaucratic procedures and concerns that have nothing to do with our basic goal, which is to create a diverse and innovative system of welfare programs across the nation that will encourage self-sufficiency.

Certainly, the Department of Health and Human Services is to be commended for meeting an extremely tight deadline in preparing the proposed regulations. And, in fact, the Department has gone to great lengths to include the States in the discussion of how the regulations will be drawn. Unfortunately, the departmental bureaucracy doesn't seem to have been listening—not to the States, or to the Governors, or to the White House, or to the Congress.

Let me take a moment to describe our efforts so far. In February, the National Governors' Association, in conjunction with the American Public Welfare Association, convened a meeting at which more than 120 States officials representing 32 States spent a full day discussing the Act and working toward consensus positions on a number of critical areas in the new law.

The recommendations of the States were reported to Secretary Sullivan, the Family Support Administration, the White House, and members of both the Senate Finance Committee and the House Ways and Means Committee.

Following our February meetings, staff from NGA and APWA met informally with staff from the Family Support Administration to further discuss and negotiate State concerns about the need for sufficient flexibility in the regulations to allow States to augment the creative and effective programs already in place around the country.

Last week, NGA and APWA held a second meeting, attended by 38 States, where the Department explained its rationale for the proposed regulations and solicited our reactions.

As I am sure you realize, this kind of "hands-on" involvement in the regulatory process is virtually unprecedented for the Governors, and it reflects our continuing commitment to the successful implementation of the Act. But it should come as no surprise, in light of our belief that the Family Support Act provides the framework to make our welfare system a means to provide meaningful opportunities for the disadvantaged and to empower them to become self-sufficient.

Viewed from that perspective, the proposed regulations fall well short of our goals. In fact, many of the proposed regulations hamper, rather than enhance, State efforts to move their welfare clients toward independence. The proposed rules will actually force significant changes in current programs—often the very programs that serve as the models for the law itself.

For example, Delaware's First Step program has been successful, in large part, because of our case management activities; but the proposed regulations would not allow us to count this part of the program for purposes of calculating participation rates.

The first issue of concern of the National Governors' Association is the odious and arbitrary methodology proposed for computing participation rates.

There are two significant problem areas: First, they would limit the kinds of activities an individual can participate in if they are to be counted in a State's participation rate. Second, they impose arbitrary hourly requirements for various JOBS program components—requirements that will undermine the goal of individualized services for clients.

For instance, the proposed regulations do not allow the States to count as participation those activities that involve assessment of client needs and development of individual employability plans. But in the States, where we have been busy changing the welfare system and making it more responsive to the people's needs, we have learned that a thorough assessment of clients' strengths and deficiencies is essential to developing appropriate and efficient service choices.

A client who reads at a third-grade level is not ready for GED training, and a client with a substance abuse problem will not be successful in a job-search program. Inappropriate placements waste time and money and often discourage clients from working toward self-sufficiency; comprehensive assessment is the means of uncovering client needs.

In other words, the proposed regulations almost encourage the States to use a cookie-cutter approach to programs, without regard to clients' needs. That isn't what we were fighting for when we set out to change the welfare system. The Governors believe that if assessment is a vial part of this effort, then it must be recognized as such, and those men and women who have entered that phase of the program must be counted, as well.

The time spent in developing individualized employability plans should also be counted for participation rates, because this is key to the success of the client. There is general agreement that the client must be a full partner in this process, that it requires a significant commitment of time and energy to develop a workable plan to move a client and her family from welfare dependence to economic independence. The proposed regulations are a disincentive to this all-important planning stage and should be eliminated.

Nobody wants clients to be idle, but engaging a welfare mother in her own future and the future of her family, showing her the possibility of financial independence, and convincing her to buy into the hard work that transition will entail—isn't that what we were talking about when we talked about welfare reform?

We are also concerned about artificial minimum hourly requirements proposed for various JOBS components by the Department. Not to put too fine a point on the question; but, if something takes 15 hours, why should it be increased by another 5 hours simply because the regulations require 20 hours?

The States believe that the unanticipated consequences of hourly requirements for individual components of JOBS activities will undermine the intent of the law to provide individualized, intensive services to the most severely disadvantaged in our population.

Arbitrary hourly requirements destroy the central purpose of individualized employability plans, plans which are intended to tailor services to build on client strengths, overcome client weaknesses, and move clients toward permanent self-sufficiency. Hourly requirements will force States to make service choices that are inappropriate and economically wasteful, and will restrict service options by imposing arbitrary hourly requirements unrelated to successful outcomes for participants.

In addition, these requirements will reduce the number of individuals who can be served, and the intensity of services they receive, by forcing the States to spend more money on each service component than may be warranted in an individual client's case.

I would like to think, Mr. Chairman, that the men and women in Delaware who are responsible for our welfare and employment and training programs, because they are professionals, can decide whether an activity is successful after 13 hours, or 17 hours, or 35 hours, and that arbitrary hourly minimums imposed long-distance are ill-considered.

What, for instance, happens to the JTPA program, which is providing 15 hours of training? Should the Federal Government second-guess the judgment of the skilled professionals who run JTPA and other employment-related programs? Just last week the Department of Labor made it clear that the administration wants better coordination of JPTA with welfare activities.

But, I wonder, is that goal brought nearer by insisting that a JTPA program be expanded needlessly, just to comply with regulations?

On the basis of potential additional child care costs alone and added pressure on scarce child care resources alone, this proposed requirement deserves to be discarded.

The only approach that captures the legislative intent of individualized services is to allow States to define what constitutes participation for an individual, in accordance with their personalized employability plan.

There is one other issue regarding participation rates we need to address: the unilateral decision by the Department that the participation rates of 7 percent in 1990, increasing up to 20 percent in 1995, are minimal requirements. Mr. Chairman, that simply is not what Congress and the Governors and the White House agreed to. The fact is, the Department pushed for higher participation rates during the drafting of the bill and, having failed to prevail in the legislative process, seems intent on prevailing through regulations.

A recent analysis by the congressional Budget Office estimates that States will have to serve three times those percentages to avoid losing the higher match rate. And analysis in individual States indicates that the congressional Budget Office report underestimated the number of persons who will have to be served to achieve the participation rates. Those demands for high numbers of participants reduce the intensity of services that can be offered to clients.

Combined with the restrictive regulations on how clients are counted, we are facing great obstacles, even before we begin the process of reform and change envisioned by the Family Support Act.

I have focused today on broad issues that penetrate the core of the reform proposals. The States have raised numerous other areas where the proposed regulations fall short of legislative intent or impede States' ability to perform their responsibilities under the Act. Many of these issues are discussed in the testimony submitted by the American Public Welfare Association. APWA and NGA will continue to pursue avenues for changing the proposed rules through consultation with HHS officials.

At the beginning of my remarks, I mentioned the fact that the Department was quite open in expressing its distrust for the States.

Mr. Chairman, I am distressed by the pervasive sense that the Department drafted some of these regulations, particularly those related to the computation of participation rates, with the purpose of eliminating perceived "gaming" of the system by the States in order to receive Federal reimbursement for client activities that are not necessarily helpful. I reject the notion that States intend to play games. It was the States, through their Governors, that led the fight for welfare reform. It was in the States where innovation and creativity were injected into a moribund system, sometimes only by riding roughshod over complacent bureaucrats who had no interest in change. It is in the States where the effects of poverty and the cycle of welfare dependency can be seen, where lives are lost to hopelessness, where our employers decry the lack of skilled workers.

We don't intend to play games with welfare. In fact, if games are indeed being played, it is not in the States but among the handful of people who still think of the States as recalcitrant children who need Big Brother's firm regulatory hand if they are not to go astray.

The first time welfare reform was declared dead, I was discouraged. The second time it was declared dead, I was skeptical. Today, I am concerned by the proposal put forward by the Department of Health and Human Services; but I believe that welfare reform came about because of a deep-seated belief in the rightness of the undertaking, and that this last effort to thwart true reform will fail.

I am certainly looking forward to continuing to work with you, Mr. Chairman, to make sure that we are successful in this enterprise.

Of course, I will be glad to answer any questions you may have, although I realize you have had a long day, already.

[Governor Castle's prepared statement appears in the appendix.]

Senator MOYNIHAN. No, sir.

I have, first, an apology to make. Senator Roth very much wished me to announce at the outset that he regrets he is not here. He is at his annual Youth Leadership Conference in Dover. He has a statement which will be put in the record before your statement.

Senator Bentsen called me just as I came in to say how much he wanted to thank you for coming down.

Finally I would say, if the television cameras have vanished, as it were, the congressional Quarterly is on hand.

Governor CASTLE. The ones who really count. [Laughter.]

Senator MOYNIHAN. What you have said has been put in sometimes greater detail, sometimes a more general proposition, by almost all the witnesses we heard this morning.

Bob Greenstein, who is a very thoughtful man, helped a lot in the formulation of this legislation. He came in with some very careful testimony. I am sure your aides will have it for you. Without being a Governor, and he is not going to tell the Federal Government how to behave, not exactly, but he said, referring to the regulations: "Reviewing the regulations in their entirety, it appears that, while in many cases the letter of the law has not been violated"—although there are significant questions as to the legality of some regulatory provisions—"the spirit and the intent of the law have been dampened."

We had two wonderful witnesses from California—Dennis Boyle, who is the Deputy Director of the Management Systems for the State of California; and Dianne Edwards, who is Director of Adult and Employment Services for Orange County, and was speaking on behalf of the County Welfare Directors Association of California—and they have it from the GAIN program, which is, in its variation, Delaware's program, and New Jersey's program, and Massachusetts' program. They were saying, in effect, "That is not how we count them. Sometimes you will need this, and sometimes you will need that, and we know who they are." You know, this is the U.S. of A., but California has a not inconsiderable population of Hmong Tribesmen from Laos, who come from a pre-literate, pre-agricultural culture. They have a very different set of problems than people who come over from New York City because they like the weather in California and decide, "Why work? Why not go to the beach?" Or whatever—I don't know. And these GAIN officials spoke to the need for flexibility.

We heard very fine testimony from Constance Horner, who is the Under Secretary of Health and Human Services. It was very clear that the persons who wrote Mrs. Horner's testimony didn't write those regulations, and it is as if they lived in two different worlds.

We had a rather disconcerting thing happen. We had a big front row up here, people full of interest in the subject, and then Ms. Horner finished her testimony, got up, and the two front rows got up with her. Out they went. I said, "Is there anybody here from HHS? Anybody?" There was one gentleman, who is a legislative-liaison sort, and a gentleman who is a consultant, but I asked, "Has anybody come back from HHS to hear the Governor of Delaware?"

Well, you were here in the beginning, sir. You have never left. [Laughter.]

Senator MOYNIHAN. No. They just left, and they didn't even come back.

We thank this gentleman for being here, but I mean Ms. Bertini should be here, to hear what California had to say, and what the Governors' Association and the American Public Welfare Association had to say. They have worked on these programs and studied the proposed regulations, and they wanted us to listen, and they had very specific suggestions.

Well, thank Heaven, we have written testimony. But HHS officials ought to go beyond reading testimony. I mean, there is something in the Old Navy—and I am getting to the point where I can talk about "the Old Navy," I am afraid.

There was a court martial offense called "dumb insolence." You didn't say anything; it was just the way you looked, you know? You could get flogged for that. [Laughter.]

Senator MOYNIHAN. Just to walk out on us—I think it is fair to say, and I think our staff would agree, that we have a tendency up here to pass legislation and say, "Well, that is that. That was a good job," and you had the billsigning ceremony, and you got your pen, and, "Fine. Done. Now, what is next?" And we have said, "No, it is not done. It is only done when something happens to people." And so we are trying to see that something good happens to people, as all of you are.

And you would have thought HHS, having clearly moved at variance with the spirit of the law, would want to have a few people sitting around who came up with the Under Secretary to hear what the Governors thought, to hear what the State directors thought. But, no. No.

I will say this, if I can, sir: The problem is institutional. That is, is that the command of this subject, involvement with it, to the extent it ever was present in HHS or HEW, has quite vanished.

One asked, "In what proportion of AFDC cases is any child support received?"

"Something like 10 percent."

"Ten percent?"

"Maybe. Something like that."

"Well, doesn't that disturb you? That means 90 percent of the people are evading the law."

"No. Not much. We are going to make this thing work," you know.

And HHS, having lost Education, having suppressed Welfare, has become a Department of Health. And that is fine. But it can't be sufficient.

Dr. Bowen would have acknowledged that. He would say, "Yes, I get your point; there is nobody here who knows anything about this subject."

Well, we are going to press that. How should we do this? Should the Governors organize a meeting in mid-summer? Or would you like the committee—I am sure Ways and Means would join—to hold a joint hearing to see how the responses are going? Because you are all putting in responses now. What would your advice be?

Governor CASTLE. Well, I think you are right, first of all. Obviously, from my testimony and from what you went through this morning, we have reached the same conclusion, that we are not getting the response that we should.

And I think you are right in a more general sense, that they are not very concerned about welfare. I truly believe that there is some gamesmanship going on from their point of view here, trying to do things that they couldn't get done when you and I and a lot of others were working on this bill.

Senator Moynihan. Yes.

Governor Castle. I don't know Secretary Sullivan very well, but I have been impressed. I have had one telephone call with him, and a few exchanges of letters. I have been impressed by him, individually, in my little bit of communication with him. It seems to me that, if somebody who is new at the helm, who is a strong person, that person's attention can be seized.

I know what its like in the Governor's office in Delaware. If somebody gets my attention, and I start screaming and yelling about what has to be done, my chief of staff pays attention, and the people who work for him pay attention, and then we start to get things done.

I think the same thing is true here. I think there has to be a realization that we are not saying these things for the sake of saying them, that Senator Moynihan is concerned that they are not sitting through to hear what other people have to say, that the Welfare Association, which has been working on this forever, has some legitimate concerns, and Governors, including conservative Governors, have some concerns.

So, my judgment is that we should capture the attention of the hierarchy and sit down and even meet with them, if need be, perhaps away from the television cameras, and express to them some of our real concerns that are a little more fundamental than just a few changes in what somebody told me is the 300 pages—which I have not read—of these regulations, but the fundamental approach to it, which is wrong.

So, my suggestion is to go behind closed doors, and get the right people in the room, and have a real, honest exchange.

Senator Moynihan. I think I heard that very carefully, sir.

The Governors will be meeting with the President, and there is that opportunity ahead.

Governor Castle. Tomorrow.

Senator Moynihan. You know, you might ask him. We created the Office—to give some direction to this—of the Assistant Secretary of Health and Human services for Family Support, and that is the person who is conspicuously not present this morning, and it is the middle of May.

Listen, I can't tell you how much we are in your debt, as always, and as we will continue to be. The main thing for you to know is that what you said, for the Governors, was repeated at every level of jurisdiction.

Governor Castle. I just wish I had been here first, to say it first. I would have looked better. [Laughter.]

Senator Moynihan. And then, Robert Greenstein said the same. And I know that Constance Horner is very receptive to this.

Dr. Sullivan I think might have been here himself today, but he is in Atlanta, in a happy season of graduation.

So we will consider this just begun. That is all, just begun. And we thank you very much, sir, on behalf of everybody.

Governor **Castle**. Thank you, Senator.

Senator **Moynihan**. And we thank all of the very patient folks—Margaret Malone and Rikki Baum, and all—who have lived through this. This is the first oversight hearing, not the last.

Governor **Castle**. Good. Thank you, sir. Enjoy your trip to Delaware.

[Whereupon, at 2:30 p.m., the hearing was concluded.]

APPENDIX

Alphabetical Listing and Material Submitted

Prepared Statement of Dennis J. Boyle

We believe that the JOBS program as enacted in the Family Support Act of 1988 (FSA) represents a landmark initiative to break the cycle of welfare dependency in the nation. The Department of Health and Human Services (HHS), in drafting the regulations, made a good start at obtaining practical State and local input to the rules, but after seeking broad advice at the outset, closeted themselves to actually write the regulations. This resulted in proposed Federal regulations that over-regulate, require data reporting that is unmanageable and unattainable, and penalize States for working with the vary population—the hard to serve—which Congress intended States to serve. Although we understand HHS's intent is to provide State flexibility, these regulations actually remove that flexibility in key areas. We believe that it will be impossible for States to qualify for enhanced funding. What will not be counted towards meeting the participation standards is particularly disturbing; the reporting provisions for serving the targeted populations are not doable, and certain program requirements result in unnecessary and duplicative paperwork. This is not a black and white picture; there are a number of areas where the Proposed Rule provides for State options. However, this testimony is focused on significant areas of concern as delineated below.

250.1(1) PARTICIPATION CRITERIA

We believe that the participation criteria in the Proposed Rule are counter to the intent of Congress In that they are excessively stringent and complex and intrude into the States' proper sphere of program discretion. The Proposed Rule goes far beyond the Statute in its very detailed prescriptions. Although the Family Support Act (FSA) did not define participation, the Conference Committee Report provides valuable insight into the Congressional intent with this statement, "Participation must be something more than simple registration for the JOBS Program: it must meet State-established requirements which are consistent with the regulations of the Secretary." As we see it, the Proposed Rule leaves the State with little meaningful discretion in establishing requirements for what will count towards meeting the JOBS participation rates which appears to be far afield from Congressional intent.

The overregulation implicit in the Proposed Rule is evidenced by the requirement to consider "good and acceptable progress" in determining whether attendance in an educational component may be counted in the participation rate requirements contained in Section 250.74. This provision acts as a disincentive to serve the most disadvantaged persons because even if these individuals meet all the attendance requirements and are fully cooperative, they may be progressing at a slower rate than the established standard for "good and acceptable progress" during a given month and would not count as meeting the participation rate requirements. The result will be to encourage "creaming" and to penalize those States trying to serve their most disadvantaged recipients. We believe that this is contrary to Congressional intent which is to encourage, not discourage, providing services to the most disadvantaged who have the greatest need.

Another example of excessive regulation is the hours-of-participation provision contained in the Proposed Rule. In order to count as meeting participation rate requirements, an activity level of at least full time for OJT and Work Supplementation and at least 20 hours per week in other specified activities must be maintained. No discretion is granted to the States in this regard. These requirements go well beyond the Statute. In fact, for single parents with children under six, the Statute mandates a *maximum* of 20 hours of required participation. Can 20 hours be simultaneously a minimum and a maximum requirement? Another example is the instance of Unemployed (U) Parents who are mandated by the Statute to meet a 16 hour per week work requirement. The Proposed Rule states that a U Parent who met the 16 hour requirement but not the 20 hour requirement would not be considered a participant for purposes of establishing the participation rate. Thus, for UP cases, a two-tiered tracking requirement would be necessary in order to establish whether or not the individual were meeting one or both requirements. We fail to grasp this convoluted logic. In our judgment, these two examples exemplify a tendency to pile requirement upon requirement with little or no consideration for the resulting administrative complexity. Ultimately, this defeats the intent of the law.

The Proposed Rule excludes Orientation and Appraisal from those components which would count towards establishing participation in JOBS on the basis that these are primarily "agency activities" rather than "client activities." We disagree since in our judgment and experience these two mandatory components represent substantial client as well as agency activity and should therefore be counted towards participation. Exclusion of these components is not supported in the Statute and does not appear to be consistent with Congressional intent.

RECOMMENDATION

Participation standards should be simplified and the States granted reasonable discretion in establishing specific attendance requirements related to specific components as Congress intended. The Federal regulations should not preempt State authority by mandating unreasonably high minimum hours per week attendance requirements in order to meet participation rates. It is our experience that participation levels can effectively be tracked only on a point in-time basis. Therefore, determination of participation should be based on whether the individual's attendance in a given component is confirmed on a given day each month without reference to "good and satisfactory progress" which should be handled separately as an administrative requirement Although it is a legitimate case—management consideration, it is inappropriate as a criteria for determining participation rates. Finally, Orientation and Appraisal should be counted towards JOBS participation since they represent substantial client activity.

250.80–250.81 TRACKING AND REPORTING REQUIREMENTS

The reporting requirements as drafted are unmanageable in terms of amount and frequency. The sample size requirement is out of proportion to any possible benefit. for example, California submits 1200 AFDC cases every six months for Its required Federal AFDC quality control sample. In stark contrast, the Proposed Rule would require a California sample of JOBS cases of 9500 cases per month, which is 5000 percent larger. Clearly, this is unmanageable. These requirements are so burdensome that the regulations acknowledge that it may be easier for some States to submit data on their *entire* JOBS caseload every month. There is no acknowledgment that producing these reports would require years of very expensive systems development without which (especially in a State—County administered system) the data collection and submission is impossible.

RECOMMENDATION

Reporting requirements should be completely revamped. It would take years to produce the kind of data being requested and even then, we question the approach of sending monthly case-specific data to HHS. Aggregate data, validated with a subsample on an annual or semiannual basis with a much smaller sample size, makes far more sense. This would be the only practical alternative for a State supervised and County administered system like California's. However, if the requirements are not changed, the practical result is that it would be infeasible to qualify for enhanced 60% JOBS funding, and thus it would not be cost-effective to expend any effort or resources in the attempt.

250.44 (a) (2) BASIC LITERACY CRITERIA

The inflexible requirement in the Proposed Rule which defines "achieving basic literacy" as the equivalent of successful completion of grade 8 is inappropriate as well as counterproductive. We believe there must be a correlation between the labor market in which the individual resides and the required competency level necessary to enhance a person's long term chances for successful employment. For example, an 8th grade level may be appropriate and necessary for an individual residing in a large industrial community where technological employment is in abundance. However, the same grade level may delay employment opportunities by requiring several years of education for an individual residing in a small rural community where job opportunities do not require that level of education.

In addition, there is a critical flaw in the use of grade level measurement of literacy for adult and secondary students. The proposed standard, eighth grade equivalency, applies to basic educational skills for children ages 13 and 14. It has been nationally recognized that this method of measurement is inappropriate for adult students. The greatest concern in the use of this type of measurement is the lack of integration between work maturity competencies and basic skill competencies in order to obtain successful employment. Thus, we believe there is a need to recognize these factors in order to appropriately assess the need for further educational services.

RECOMMENDATION

We recommend that the basic literacy level requirement be revised to allow states flexibility in determining basic literacy levels based on labor market demands in conjunction with life skills and job experience. For the reasons stated above, we do not support any proposal to impose a higher grade level equivalency requirement than that contained in the Proposed Rule.

250.21 STATE PLAN CONTENT

It appears that the State Plan content requirements in the Proposed Rule do not recognize that State—County administered States like California will not have uniform operational systems. for example, in California, Counties may select their own Assessment tool consistent with general State guidelines. It appears, however, in the Proposed Rule that data on Assessment as well as the delivery of services must be detailed in the State plan County by County. The result will be an unmanageable mass of nice-to-have information that will be stored and not used. Gathering and submitting information takes valuable State, County and Federal resources. For that reason, nonessential data elements should not be included in data requirements. A formal evaluation or survey is the appropriate way to obtain this data.

RECOMMENDATION

State plans should delineate the general policies that will control the operations of the State and Counties so that HHS can be assured that our standards are adequate. Detailed County-by-County data is not appropriate.

255.6 CHILD CARE DATA

Child care data submission requirements appear also to require excessive amounts of information, some of which is longitudinal in nature and therefore difficult to attain. For example, while it is appropriate to require information on numbers served and dollars spent, requesting information regarding the length of time child care was received or the proportion of employed or unemployed families receiving child care unnecessarily burdens the system.

RECOMMENDATION

Child care data requirements should be limited to essential data elements such as numbers of recipients served and dollars spent. Strictly informational data should not be required, particularly if it is operationally difficult to produce.

250.40 PHASE-IN OF APPICANT/RECIPIENT INFORMING PROVISIONS

The Act does not set a deadline for the initial informing process to applicants and recipients. Therefore, there is flexibility to allow for reasonable caseload phase-in. In California under GAIN, the allowable phase-in period is three years. Yet HHS requires that, immediately upon JOBS implementation, all applicants and recipients must be notified of the JOBS Program in significant detail at the time of application and redetermination. The result in many instances will be stale, irrelevant and misleading information, falsely raised expectations, and real anger by AFDC recipients who may want services immediately, but can't reasonably be served for many months if not years. This serves no one's best interests. Also in the area of informing, the Proposed Rule mandates that all AFDC applicants and recipients be informed of an extensive amount of information, some of which is more appropriate to address in a JOBS orientation session when the information is more applicable. For example, all applicants and recipients must be informed verbally and in writing of the types and locations of child care services reasonably accessible to participants even if such information is not relevant to them. Parents with 15-year-olds, two parent families, or recipients who won't be served in the near future do not need information at this level of detail. It is a waste of paper, time, and money.

The Proposed Rule prohibits FFP for U Parents for whom the "appropriate steps toward the participation of such parent" have not been taken within 30 days of receipt of aid. Under former WIN regulations, these cases simply had to be certified. There is a vast difference between the two.

RECOMMENDATION

Caseload phase-in should be recognized and reasonable provisions made in the Final Rule. Also, reasonable judgment should be allowed in providing information to clients so that information relevant to their particular situations is not drowned in a sea of information which does not apply to them and for which they have no need or interest.

250.41 OVERREGULATION OF EMPLOYABILITY PLAN PROVISIONS

The employability plan requirements overlap considerably with the participant agreement requirements in a State like California. There is no need to address supportive services, mutual responsibilities of the participant and IV-A agency, etc., in the employability plan when these very elements are addressed in the participant agreement.

RECOMMENDATION

The Final Rule should provide for reasonable operational flexibility.

Thank you for this opportunity to comment on the Proposed Rule.

PREPARED STATEMENT OF GOVERNOR MICHAEL N. CASTLE

Good afternoon, Mr. Chairman. I was thinking the other day about welfare reform, about the fact that we spent nearly three years convincing everyone who had the power to say no, to say yes instead—yes to the most significant proposal for public assistance in half a century. It wasn't easy. Welfare reform was declared dead at least once, and it may well have been dead had it not been for your efforts and your support, Mr. Chairman.

We succeeded, Mr. Chairman, because you and your colleagues were unwilling to allow the great need for change to be forgotten or ignored. Unfortunately, it seems now that the historic reform of the American welfare system is about to run aground on the submerged rocks of bureaucracy.

This undertaking, which was support by the Governors of the nation, which won passage in both houses of Congress, and which was signed into law by the President last year, apparently has not met with the approval of those responsible for drafting regulations to implement the Family Support Act of 1988. In fact, the draft regulations published by the Department of Health and Human Services recently seem designed expressly to prohibit the kind of daring and innovative reforms at the state level that served as model for the federal law. Why? Because the department is afraid the states will employ underhanded methods and sleight of hand to obtain federal funds. As they put it, they're afraid the states will "game" the program.

Having failed to convince the Congress, the White House, or the Governors of the fifty states to agree to unrealistic participation rates while the bill was being negotiated, they are using the regulations to raise the rates unilaterally. They are systematically eliminating the flexibility so important to the states in developing innovative approaches to welfare reform—and to helping people break free of welfare dependency once and for all.

As this committee knows, the National Governors' Association worked diligently with the Congress and the White House to craft a law that encompassed the best ideas and innovations developed by the states about how to move our welfare clients from dependency to self-sufficiency. The central tenet of NGA policy, and one which is clearly encompassed in the Family Support Act, is that if we are going to reduce childhood poverty, increase the preparedness of our current and future workforce, and secure our common economic future, then we must transform this income maintenance system, with its minor work component, into a program that focuses on education, training, and employment for our most disadvantaged citizens.

Our goal and our vision of how to reach that goal have not changed. But the path to that goal is being strewn with obstacles, in the form of the recently published proposed regulations for the Jobs Opportunities and Basic Skills Training Program, or JOBS, and related support services of the Family Support Act.

The final shape of these regulations is of critical concern to the Governors and their states. The regulations can either provide us with the opportunity to run our programs in an efficient and effective way—or they can entangle the states in bureaucratic procedures and concerns that have nothing to do with our basic goal, which is to create a diverse and innovative system of welfare programs across the nation that will encourage self-sufficiency.

Certainly the Department of Health and Human Services is to be commended for meeting an extremely tight deadline in preparing the proposed regulations.

And, in fact, the department has gone to great lengths to include the states in the discussion of how the regulations will be drawn. Unfortunately, the departmental bureaucracy doesn't seem to have been listening—not to the states, or to the Governors, or to the White House, or to the Congress.

Let me take a moment to describe our efforts so far. In February, the National Governors' Association, in conjunction with the American Public Welfare Association, convened a meeting at which more than 120 state officials representing 32 states spent a full day discussing the act and working toward consensus positions on a number of critical areas in the new law.

The recommendations of the states were reported to Secretary Sullivan, the Family Support Administration, the White House, and members of both the Senate Finance Committee and the House Ways and Means Committee.

Following the February meeting, staff from NGA and APWA met: informally with staff from the Family Support Administration to further discuss and negotiate state concerns about the need for sufficient flexibility in the regulations to allow states to augment the creative and effective programs already in place around the country.

Last week, NGA and APWA held a second meeting, attended by 38 states, where the department explained its rationale for the proposed regulations and solicited our reactions.

As I'm sure you realize, this kind of "hands-on" involvement in the regulatory process is virtually unprecedented for the Governors, and reflects our continuing commitment to the successful implementation of the act. But it should come as no surprise in light of our belief that the Family Support Act provides the framework to make our welfare system a means to provide meaningful opportunities for the disadvantaged and to empower them to become self-sufficient.

Viewed from that perspective, the proposed regulations fall well short of our goals. In fact, many of the proposed regulations hamper, rather than enhance, state efforts to move their welfare clients toward independence. The proposed rules will actually force significant changes in current programs—often the very programs that serve as the models for the law itself.

For example, Delaware's "First Step" program has been successful, in large part, because of our case management activities, but the proposed regulations would not allow us to count this part of the program for purposes of calculating participation rates.

The first issue of concern the National Governors' Association is the odious and arbitrary methodology proposed for computing participation rates.

There are two significant problem areas. First, they would limit the kinds of activities an individual can participate in if they are to be counted in a state's participation rate. Second, they impose arbitrary hourly requirements for various JOBS program components—requirements that will undermine the goal of individualized services for clients.

For instance, the proposed regulations do not allow the states to count as participation those activities that involve assessment of client needs and development of individual employability plans. But in the states, where we have been busy changing the welfare system and making it more responsive to people's needs, we have learned that a thorough assessment of clients' strengths and deficiencies is essential to developing appropriate and efficient services choices. A client who reads at a third-grade level is not ready for GED training, and a client with a substance abuse problem will not be successful in a job-search program. Inappropriate placements waste time and money and often discourage clients from working toward self-sufficiency; comprehensive assessment is the means of uncovering client needs. In other words, the proposed regulations almost encourage the states to use a cookie cutter approach to programs, without regard to clients' needs. That isn't what we were fighting for when we set out to change the welfare system. The Governors believe that if assessment is a vital part of this effort, then it must be recognized as such and those men and women who have entered that phase of the program be counted as well.

The time spent in developing individualized employability plans should also be counted for participation rates, because this is key to the success of the client. There is general agreement that the client must be full partner in this process, that it requires a significant commitment of time and energy to develop a workable plan to move a client and her family from welfare dependence to economic independence. The proposed regulations are a disincentive to this all-important planning stage and should be eliminated. Nobody wants clients to be idle. But engaging a welfare mother in her own future and the future of her family, showing her the possibility of financial independence, and convincing her to buy in to the hard work that transition will entail—isn't that what we were talking about when we talked about welfare *reform?*

We are also concerned about artificial minimum hourly requirements proposed for various JOBS components by the department. Not to put too fine a point on the question, but if something takes 15 hours, why should it be increased by another five hours simply because the regulations require 20 hours?

The states believe that the unanticipated consequences of hourly requirements for individual components of JOBS activities will undermine the intent of the law to provide individualized, intensive services to the most severely disadvantaged in our population. Arbitrary hourly requirements destroy the central purpose of individualized employability plans, plans which are intended to tailor services to build on client strengths, overcome client weaknesses, and move clients toward permanent self-sufficiency. Hourly requirements will force states to make service choices that are inappropriate and economically wasteful, and will restrict service options by imposing arbitrary hourly requirements unrelated to successful outcomes for participants. In addition, these requirements will reduce the number of individuals that can be served and the intensity of services they receive by forcing the states to spend more money on each service component than may be warranted in an individual client's case.

I would like to think, Mr. Chairman, that the men and women in Delaware who are responsible for our welfare and employment and training programs—because they are professionals—can decide whether an activity is successful after 13 hours, or 17 hours, or 35 hours, and that arbitrary hourly minimums imposed long-distance are ill-considered.

What, for instance, happens to the JTPA program, which is providing 15 hours of training? Should the federal government second guess the judgment of the skilled professionals who run JTPA and other employment-related programs? Just last week the Department of Labor made it clear that the administration wants better coordination of JTPA with welfare activities.

But I wonder, is that goal brought nearer by insisting that a JTPA program be expanded needlessly . . . just to comply with regulations?

On the basis of potential additional child care costs alone and added pressure on scarce child care resources alone, this proposed requirement deserves to be discarded.

The only approach that captures the legislative intent of individualized services is to allow states to define what constitutes participation for an individual, in accordance with their personalized employability plan.

There is one other issue regarding participation rates we need to address—the unilateral decision by the department that the participation rates of 7 percent in 1990 increasing up to 20 percent in 1995 are *minimal* requirements. Mr. Chairman, that simply is not what Congress and the Governors and the White House agreed to. The fact is, the department pushed for higher participation rates during the drafting of the bill, and, having failed to prevail in the legislative process, seems intent on prevailing through regulations.

A recent analysis by the Congressional Budget Office estimates that states will have to serve three times those percentages to avoid losing the higher match rate. And analysis in individual states indicates that the CBO report underestimated the number of persons who will have to be served to achieve the participation rates. These demands for high numbers of participants reduce the intensity of services that can be offered to clients.

Combined with the restrictive regulations on how clients are counted, we are facing great obstacles even before we begin the process of reform and change envisioned by the Family Support Act.

Let me add one other observation about the draft regulations. The proposed regulation would eliminate the option for states to provide child care and other work-related supportive services through special needs determinations. This restriction may limit the ability of some recipients to participate in the JOBS program activities, and that concerns the Governors.

I have focused today on broad issues that penetrate the core of the reform proposals. he states have raised numerous other areas where the proposed regulations fall short of legislative intent or impede states' ability to perform their responsibilities under the act. Many of these issues are discussed in the testimony submitted by the American Public Welfare Association; APWA and NGA will continue to pursue avenues for changing the proposed rules through consultation with HHS officials.

At the beginning of my remarks, I mentioned the fact that the department was quite open in expressing its distrust for the states.

Mr. Chairman, I am distressed by the pervasive sense that the department drafted some of these regulations, particularly those related to the computation of participation rates, with the purpose of eliminating perceived "gaming" of the system by the states in order to receive federal reimbursement for client activities that are not necessarily helpful. I reject the notion that states intend to play games. It was the states, through their Governors, that led the fight for welfare reform. It was in the states where innovation and creativity were injected into a moribund system, sometimes only by riding roughshod over complacent bureaucrats who had no interest in change. It is in the states where the effects of poverty and the cycle of welfare dependency can be seen, where lives are lost to hopelessness, where our employers decry the lack of skilled workers.

We don't intend to play games with welfare. In fact, if games are indeed being played, it is not in the states, but among the handful of people who still think of the states as recalcitrant children who need Big Brother's firm regulatory hand if they are not to go astray.

The first time welfare reform was declared dead, I was discouraged. The second time it was declared dead, I was skeptical. Today, I am concerned by the proposal put forward by the Department of Health and Human Services, but I believe that welfare reform came about because of a deep-seated belief in the rightness of the undertaking, and that this last effort to thwart true reform will fail.

I am certainly looking forward to working with you, Mr. Chairman, to make sure that it does.

I will be pleased to answer any questions you might have.

PREPARED STATEMENT OF SENATOR JOHN H. CHAFEE

Mr. Chairman, I appreciate having the opportunity today to discuss the regulations published by the Department of Health and Human Services regarding the Family Support Act of 1988. The Senate Finance Committee, and particularly you Mr. Chairman, devoted a great deal of time and effort to reform our welfare program. Now we must ensure that the new family support program we created is implemented as we had intended both efficiently and effectively.

Our work to reform the welfare program was based on the belief that we should help people help themselves. The Family Support Act will provide people with the training they need to become employed and self-sufficient. The AFDC program will now be striving toward preventing people from getting caught in the cycle of poverty.

Yet, during the discussion of welfare reform the Committee recognized that prevention of welfare dependency does not just begin after people enter the welfare rolls. It often begins with teenage pregnancy. By including the Teen Care Demonstration Projects in the Family Support Act, the Committee expressed its support for helping teenagers avoid pregnancy and welfare dependency.

In my own state of Rhode Island, there are about 3,400 recorded teenage pregnancies each year. Virtually all of the 1,500 teens who carry their babies to term, keep them. Sixty percent of these young mothers are unwed and seventy percent become dependent on welfare.

These statistics are alarming in Rhode Island and in the nation. The trend that we are witnessing must end. Teenagers must be encouraged to take the necessary precautions to avoid pregnancy. To accomplish this task, we must instill a sense of self-worth in our youngsters. We must provide them with programs that emphasize the importance of education and with counseling to help them develop self-esteem.

The Teen Care Demonstration Projects will do exactly these things. Unfortunately, although the program was authorized at $1.5 million, it received no appropriation for 1989. This means that the Secretary of HHS has not and probably will not issue regulations for a program that cannot be implemented without adequate funding.

Mr. Chairman, I will be working to provide funding for Teen Care so that the next time we discuss the implementation of welfare reform regulations, we also discuss the implementation of Teen Care. I believe that this program ~~is~~ essential component of preventing welfare dependency. I certainly hope that you will continue to as supportive of Teen Care as you have been in the past.

While providing funding for the Teen Care Demonstration Projects is a priority of mine, it is not the only issue important to our discussion today. There are many issues we will be addressing in this hearing to ensure that the Family Support Act of 1988 is properly implemented.

Mr. Chairman, thank you for the opportunity to participate in today's hearing. I look forward to an informative discussion.

PREPARED STATEMENT OF PETER M. COVE

My name is Peter M. Cove. I am the founder of America Works of Connecticut, Inc. and representing America Works of New York, Inc. (formerly New York Works, Inc.)

First, I want to acknowledge the committee's landmark legislation, and to give particular credit to its chairman, Senator Moynihan. Without his leadership on welfare issues, a Family Support Act might never have become law. We believe that the purpose of that Act is to stimulate new and creative ways of moving welfare recipients from relief rolls to self supporting jobs. Beyond a doubt, its intent is not to put an end to the many innovative programs that have been started in the past ten years.

My purpose in appearing here today is to request a change in the Department of Health and Human Services' interpretation of the Work Supplementation provisions of the Family Support Act. We propose that Work Supplementation in the private sector be treated like On-The-Job-Training and that the same standards for job displacement be used for both. Anything less will eliminate Work Supplementation in the private sector, and so deprive AFDC recipients of access to millions of jobs that might lead them to self-sufficiency. Simply put, HHS is interpreting a new provision of Work Supplementation to mean that no AFDC recipient may fill a job in the private sector if that job previously existed. Only "new" jobs can be filled through Work Supplementation. It is this interpretation that we believe should be changed.

The Supported Work Concept. America Works in New York City and in Hartford, Connecticut are private companies that recruit, train and place AFDC recipients with employers who hire them, following a trial period. During an internship of about four months, AFDC recipients work at a host company, also under the host company's supervision, while remaining on America Works' payroll. Throughout the internship, America Works provides constant support to the worker and to the host company management if problems arise. This can mean providing day care, or counseling a worker on punctuality and other good work habits. Essential here is the intervention of support services during the first crucial weeks on the job.

Often that makes the difference between success and failure for an otherwise qualified AFDC recipient. The term "supported On The Job Training" may best fit this model.

Following a trial period, successful workers (about two thirds of them) are hired and become regular employees of the company. It should be noted here that workers are not charged a fee for this service. In fact they receive a paycheck from America Works. Nor is the host company charged for the workers it obtains.

This arrangement affords all parties a win-win opportunity. For the private sector America Works recruits AFDC recipients who reduce turnover. It provides try-before you buy hiring with added personnel support of the workers, thus insuring a higher rate of success. This also gives the private sector a risk free means of accomplishing public good by reducing welfare dependency.

For the AFDC recipients America Works provides temporary full-time work leading to permanent employment. It gives workers access to jobs in companies which they would likely not otherwise be interviewed or hired.

Further, it gives them support with work-related problems from six to seven months and longer. It keeps them in the welfare system during the "weaning" process as they become familiar with the world of work and their new job requirements. If it should not work out, there is no gap in benefits since they are still in the system. This is a great incentive to potential workers who are ready but fearful that failure in the job will result in months of lost benefits.

For government, benefits are substantial and risk free. America Works is paid by the state only upon successful hiring of a worker by the host company following internship. Even here a portion of the total payment is held for 90 days in New York and 60 days in Connecticut to assure retention. This means that the AFDC recipient is recruited, trained, placed, supported, hired by the host company and has been there for about four months before America Works receives any money from the state. Such performance-based contracts assure, perhaps for the first time in any employment program, delivery of jobs before payment. The return on investment for the government in reduced welfare expenditures begins in about six months with growing savings thereafter. During the four month internship period America Works receives Work Supplementation (otherwise called grant diversion) to offset a portion of the workers' wages. As well, the companies pay us, as they would a temporary agency, for our services of placing and supporting the worker. So that support, which I have already said is crucial, is paid, in part, by the private sector. Without this, over 55 percent of the total cost of the employment program would have to come from government. Instead, this year, private companies contribute over two million dollars of these costs.

The Family Support Act. The new regulations cite wording in Section 484(C) of the Family Support Act that specifically bars any participants in a work supplementation component from being assigned to "fill any established, unfilled position vacancy." The same prohibition has always existed in CWEP which "appears to limit the use of the Work Supplementation to jobs that did not previously exist." In other words, only new jobs can be filled.

It is our belief that it was not the intent of Congress to so hamstring the private sector that it could not find creative ways in which to hire AFDC recipients. We suspect that this provision was inserted in CWEP to prohibit displacement of local public employees by federally subsidized workers. We do not believe the provision was intended to bar the private sector from using worker supplementation except in new jobs.

Following is a summary of the reason such application of the CWEP regulation is unwise and that On-The-Job-Training standards should apply.

1. IT IS DIFFICULT TO DETERMINE WHAT IS A "NEW" JOB

Especially in the private sector, it is nearly impossible for a program operator to define a "new" job. For example, if a company has 100 employees and shifts some openings to technical jobs but maintains 100 employees, are those technical jobs new? In a three person office where the secretary leaves and they redefine the job as a typist, is that new? If a branch office shuts down in one area and opens up in another area, are jobs in the new office area new? The private sector is a fluid, changing environment. Except in isolated cases "new" jobs are difficult to identify. Even sophisticated economists have trouble determining what is really new.

2. THE INTENT OF THE PROVISION IS TO AVOID DISPLACEMENT

The intent of this provision is to assure that an employer does not lay off or get rid of a regular worker to hire a subsidized worker. This is an important concern and one we can address through an agreement signed by the employer. The Department of Labor's On-The-Job-Training (OJT) programs have required similar agreements. This successful program has operated in the private sector for 30 years. *The HHS program should not be more restrictive than OJT.*

In addition, in the America Works model the employer pays hourly rates similar to what a regular worker would earn. Therefore, they are not using the program to subsidize costs. All America Works workers join unions during the initial trial period if the regular workers would have joined the union.

3. THERE ARE SIGNIFICANT ADVANTAGES FOR WELFARE RECIPIENTS

Welfare recipients find the Work Supplementation program eases the catch 22 that results when they try to leave welfare. Many people on AFDC are afraid of getting a job because if something goes wrong on the job, they will have difficulty getting back on welfare. Delays can take months. During the four month trial period in Work Supplementation a recipient tries a new job. If something doesn't work out the recipient is immediately fully back on welfare. If it does work out, at the close of the trial period the recipient is happy to go off welfare and say good bye to the system. No other programs allows this trial period of working and receiving benefits without fear.

The additional funds from Work Supplementation allow the program operator to enhance support to the worker. In America Works' case we hire support staff who guide, train and counsel workers on site at companies. These support staff people handle 15-20 recipients and in most cases make the difference in their success. Without grant diversion these services would not be affordable.

4. ALL AMERICA WORKS JOBS ARE NEW JOBS

Technically, America Works hires welfare recipients for the first four months before they go on a company payroll. The jobs at America Works could therefore be considered new jobs. America Works is the recipient of Work Supplementation, not the employer. America Works pays the welfare recipient's wages.

5. IS CONFUSION ON THE ROLE OF OJT, WORK SUPPLEMENTATION AND CWEP

On the Job Training is not a substitute for Work Supplementation. Traditionally the OJT model has worked for job-ready applicants who need skill training. Work Supplementation has been used for less skilled more disadvantaged recipients. These are people who need extensive counseling and support.

CWEP has the restriction of filling only new jobs because the recipients do not get paid. There were abuses, too, under CETA where municipalities used CETA workers to supplement local budgets. Unions and others were afraid this would happen with CWEP which is "free" labor, thus the restriction. None of this is true of Work Supplementation; here, workers are paid.

6. AMERICA WORKS IS PAID ONLY FOR A SUCCESSFUL PERFORMANCE

America Works receives payment only when a werlfare recipient gets a job and is off welfare. It is paid purely on performance. When America Works invests in the program operation until the worker is hired, State and Federal governments pay only for delivery—not for process. (At least two dollars is returned in welfare savings for every dollar invested by Government.)

America Works is joined by companies in New York and in Connecticut, as well as many others nationally, harnessing ark supplementation to get jobs in the private sector.

In New York, state-wide, over 1,365 AFDC recipients were enrolled in the work supplementation programs from July '87 to June '88 and most were hired permanently. Last year in Connecticut 250 AFDC recipients received unsupported jobs through work supported efforts.

New York's Department of Social Services, led by Commissioner Cassar Parales, initiated by Michael Dowling now of the Governors Office a breakthrough use of private-sector Work Supplementation. through performance based contracting. He was aided in this effort by Assistant Commisioner Oscar Best.

Similarly, Connecticut State Senator, Joe Harper, Chair of the Appropriations Committee, with former Commissioner of Income Maintenance Steven Heintz and present Commissioner Lorraine Aronson encouraged state support for private sector backing, financing and operation of Work Supplementation programs. Their vision has allowed Work Supplementation to stimulate the private sector to help finance what would have been a totally publicly supported program. It is a true public/private innovative model; the kind this new legislation seeks to stimulate, not eliminate.

We request that the Department of Health and Human Services allow this model to continue. Section 482(D)CIV allows the secretary to approve "any other work experience program" as he sees fit. Perhaps this would allow the secretary some authority pending legislative change. As already proposed the department could interpret this as an On-The-Job-Training model and apply similar guidelines. In any case, we ask for an immediate review because otherwise many programs across the nation will close by June 30, 1989, depriving AFDC recipients of good jobs and the public of private sector support.

Want to thank the committee for the time it has given me to express our concern for this issue and again to commend Senator Moynihan and the members of this committee for having drafted a law that should reform welfare for years to come.

PREPARED STATEMENT OF NANCY EBB

The Children's Defense Fund ("CDF") appreciates the opportunity to testify today on proposed regulations implementing the Family Support Act. CDF is a privately-supported public charity that advocates for the interests of low-income children. CDF followed closely Congress' consideration of the Family Support Act, and continues to work intensively with advocates and state officials as they begin to implement its provisions. We have requested the opportunity to appear today because we believe certain aspects of the child care regulations proposed by the Department of Health and Human Services (HHS) seriously undermine some of the Act's potential for significant reform, and in a number of instances violate the spirit and letter of the law.[1]

The carefully crafted child care provisions of the Family Support Act offer states the opportunity to establish a child care system that meets the needs of AFDC children and at the same tame enables their parents to move toward self-sufficiency. Unfortunately, the proposed regulations undermine these child care provisions in fundamental and troubling ways.

I. THE REGULATIONS UNDERCUT THE ACT'S GUARANTEE OF CHILD CARE

Congress, during its consideration of the Family Support Act, heard repeatedly from Governors, state officials, and advocates about the critical need for child care if efforts to assist parents towards self-sufficiency were to be successful. Congress responded by including a strong guarantee for child care in the Act.

The statute clearly states that child care is guaranteed for two groups of individuals: families for whom child care is necessary to accept or to retain employment, and families for whom child care is necessary to engage in education or training activities (both through the JOBS program and through self-arranged programs). Section 402(g)(1)(A)(i). The guarantee is stated as an entitlement: states *must* guarantee care to *each* family or individual. The statute identifies clearly the limitations on the entitlement: for families in employment, there must be a determination by the state that the care is necessary for the individual to accept or retain employment; for individuals in training or education programs, the state must approve the activity and determine that the individual is satisfactorily participating. These are the *only* conditions on the entitlement. Indeed, to underline the seriousness of its promise of child care, the Senate strengthened its description of the child care provision by replacing a provision that the state "assure" child care with the provision that the state "guarantee" such care.

The proposed regulations gut this promise of care. Although one section of the regulations restates the statutory guarantee, Sec. 255.2(a), the Preamble describes the guarantee as a "conditional entitlement," not a right for families that meet the statutory criteria. 54 F.R. at 15666, 15670. The Preamble provides that states can limit the guarantee by failing to allocate sufficient resources to meet the need:

> The guarantee may be limited by State appropriation ceilings, the available supply of other State, local and federally-funded services, such as Title XX services, and the target group priorities. A State IV-A agency is not required to treat child care benefits under this Part of the proposed regulations as an absolute entitlement and to provide all employed recipients and participants in JOBS with child care benefits . . . 54 F.R. at 15666.

The proposed regulations reflect the Preamble's limited reading of the guarantee: the state plan must describe

> the priorities to be applied in determining when needed child care wall be guaranteed for accepting or maintaining employment and for education or training, including JOBS participation. Sec. 255.1(d).

If the guarantee were interpreted as the Act intended, there would be no need to establish priorities among families to such care, since *all* eligible families would receive it.

The proposed regulations guarantee child care to far fewer individuals than Congress intended: states must guarantee child care for mandatory participants (or excuse their failure to participate), Sec. 250.35(b); and they must indicate in their state plan how they will assure sufficient child care to meet JOBS participation rates. Sec. 255.1(j). There is no assurance that volunteers—even those in the target groups that Congress directed should be served first by the JOBS program—will be given the child care necessary for them to engage in employment, education, or training programs. We know, however, from both the Massachusetts and California welfare-to-work experience that parents of young children do volunteer when child care is provided. The regulations' child care restrictions have devastating implications for these parents' ability to participate.

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[1] In response to the Subcommittee's request that interested groups with common positions coordinate their presentations, CDF's testimony focuses only on child care issues. We also have a number of concerns about the education, employment and training regulations, and urge your serious consideration of testimony by the Center for Law and Social Policy and the Center for Budget and Policy Priorities.

The regulations also undermine the statutory guarantee in other ways:

- Because HHS views child care for AFDC recipients as only a "conditional entitlement," it does not extend prior hearing rights to AFDC families if the state proposes to reduce or terminate child care benefits, or change the nature of those benefits.[2] While recipients are entitled to a fair hearing, it need not be a *prior* hearing. Sec. 255.2(h), Preamble at 15670. This violates the Family Support Act, which specifically requires state procedures for resolving JOBS-related disputes that comply with the due process requirements of *Goldberg* v. *Kelly,* 397 U.S. 254 (1970). Sec. 482(h). *Goldberg* held that recipients of subsistence benefits are entitled to prior notice and the opportunity for hearing *before* benefits can be terminated or reduced. The need for a hearing before child care benefits are terminated or reduced is compelling: when state assistance is cut off, families are likely to lose their child care, and may be forced to drop out of employment or training—consequences that cannot be easily reversed if a hearing later determines that the state decision was incorrect.
- The regulations also limit the child care guarantee to care for children through age 12, and to older children who are physically or mentally handicapped. Sec. 255.2(a). No such restriction is authorized in the Family Support Act. Many states now recognize the child care needs of older poor children. A CDF survey of 42 states that provide child care through their Title XX programs found that twenty-one states either pay for care up to a specified age that is greater than 12, or set no age limit. Kansas, for example, pays for child care up to age 16, while Michigan, Ohio, Tennessee, Washington state, and West Virginia pay up to age 15. We believe that states should be required to pay for care through age 12, and given the option to pay for children over age 12. Moreover, we believe that the regulations' verification requirements for establishing that handicapped children need care are excessively burdensome, and should be made more flexible. (*See* Sec. 255.2(a)).

II. THE REGULATIONS LIMIT STATES' FLEXIBILITY TO DESIGN A STRONG CHILD CARE SYSTEM

Designing an effective child care system for AFDC families is a challenge for states that want to do it right. The supply of appropriate child care for poor families is limited, in part because reimbursement levels are so low and in part because many providers are reluctant to accept subsidized families, seeing them as clients who require more intensive services. Moreover, many families have little experience with formal care, and need thoughtful assistance in assessing their child care needs and in obtaining appropriate care. The most appropriate care for many poor children is developmentally enriched care, which results in such long-term rewards as lower dropout rates, improved school performance, and lower delinquency rates. Child care needs do not end with the last AFDC check: parents who work their way off the AFDC rolls are still vulnerable and need continuing child care support to remain self-sufficient.

The Family Support Act gives states the tools to create a child care system that responds to these needs by allowing them to set reimbursement rates closer to the real cost of purchasing care; by requiring them to offer child care counseling and referral services; and by providing a year of transitional child care benefits when a family leaves the AFDC rolls due to earned income. The regulations, however, severely restrict states' ability to serve families' child care needs through these mechanisms.

A. *The Regulations Improperly Restrict States' Ability to Set Child Care Rates at Realistic Levels.* The statute allows states to pay more for child care than the limits set by the child care disregard ($175/month for older children, $200/month for infants and toddlers), and to obtain federal matching funds so long as the rate does not exceed the local market rate. Sec. 402(g)(3)(B)(ii). This provision is important, since the child care disregard limits are often inadequate to purchase quality care:

- A Johns Hopkins study for the State of Maryland notes that in 1986 the statewide average cost of regulated family day care for 2-5 year olds was $203/month. In the highest cost county, the average cost of such care was $303/month—$128 more than the disregard currently allows.

The regulations, however, limit federal reimbursement to the 75th percentile cost of local care. This limit is unauthorized by statute, and is bad policy as well:

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[2] If a change in method affects AFDC grant levels, however, prior notice requirements do apply. Preamble, 54 F.R. at 15670.

- It inhibits states' ability to obtain child care for families with special needs (e.g., handicapped children or children of teen parents), or to provide developmentally enriched care where appropriate;
- It is more restrictive than existing state policy in some welfare-to-work programs (California and Washington state, for example, have rates that allow participants to purchase 90 percent of care in the locality); and
- It limits states' ability to persuade providers to accept welfare-to-work children. The Hopkins study found that for Maryland's Project Independence to meet its target goal and reduce Maryland's AFDC rolls by 10 percent, the state would need 5,000 new subsidized child care slots. If states cannot pay providers a competitive rate, they cannot purchase enough child care to meet AFDC recipients' needs.

B. *The Regulations Improperly Deny Federal Matching Funds for Provider Recruitment and Resource Development.* The Family Support Act requires states to provide child care counseling to JOBS participants. This includes providing information on the types and locations of child care services reasonably accessible to program participants; and, upon request, providing assistance to participants in selecting and obtaining appropriate child care services. Sec. 482(c)(3). In order to provide this counseling effectively, the state will have to (directly or through arrangements with others) learn where appropriate providers are located, whether they have openings and are willing to accept JOBS participants, and negotiate payment agreements with the providers. Moreover, as proposed regulations require, the state will have to take measures to ensure that sufficient child care is available to meet participation rates.

The regulations, however, provide that "(n)o Federal matching is available for the recruitment or training of child care providers, resource development, or licensing activities." Sec. 255.4(f). Such a restriction on funds for recruitment and resource development is contrary to what the federal statute requires states to do, and is unauthorized.

C. *The Regulations Improperly Restrict Access to Transitional Care.* The Family Support Act creates a one-year entitlement to continuing child care assistance if a family loses AFDC due to employment, has received AFDC in three of the six preceding months, and the state determines such care is necessary for the caretaker's employment. Sec. 402(g)(1)(A)(ii). The proposed regulations require that, in order to get these transitional benefits, families must complex a separate application for benefits. Moreover, benefits cannot be received retroactively back to the date when AFDC was terminated. Rather, they can be received only as of the date of reapplication.

Such a policy would likely mean that many eligible families will never be provided essential transitional benefits. Others whose reapplications are delayed will lose the full twelve months of benefits and may suffer gaps in child care that cost them their jobs. Families have already experienced serious problems obtaining transitional benefits in states with state-funded transitional programs:

- In New York State, where state regulations require that local social services districts make available to all clients information regarding state child care options available to them, 83 percent of recipients surveyed by Statewide Youth Advocacy reported that their worker did not tell them they were eligible for transitional child care assistance.
- In California, where the GAIN program provides three months of transitional child care, only a fraction of families who appear to be eligible for transitional benefits actually receive them. Data from the Manpower Demonstration Research Corporation indicate that 68% of GAIN volunteers studded used state child care funds, but only 24% who left the program due to employment used transitional child care funds.

The requirement for a separate application is unauthorized by statute, and departs from HHS' longstanding practice of continuing transitional Medicaid benefits without requiring reapplication. It burdens both state and recipient, requiring additional paperwork when the state—which has just reviewed the family's income in order to determine it ineligible—presumably has all the current financial information it needs. Final regulations should not require reapplication. However, they should require that AFDC families receiving child care be notified in advance if the form of payment will change once they began receiving transitional benefits (for example, if they have been receiving child care through the disregard and will have care paid for by voucher during transition); that there be no gap in child care assistance as families move from AFDC-linked child care to the transitional program; and that families leaving AFDC who have not been receiving child care assistance (for example, because their job immediately makes them ineligible for AFDC) receive immediate notice of the opportunity to receive transitional assistance, beginning with the month in which they become ineligible for AFDC.

III. THE REGULATIONS COMPROMISE THE QUALITY OF CARE AVAILABLE

Congress created some basic protections for children in care because of its concern that participation of parents in employment, education and training should not be at the expense of children's well-being. The proposed regulations undermine these protections.

A. *The Regulations Limit Health and Safety Protections for Children in Center-Based Care.*

The statute requires that child care paid for through the Family Support Act must meet applicable state and local standards. Sec. 402(g)(3)(A)(ii). Recognizing that some center-based care was exempt from such standards, but believing that minimal health and safety protections are essential, Congress also required that states must establish procedures to ensure that *all* center-based care will be subject to state and local health and safety requirements, including fire safety provisions. Sec. 402(g)(4). The regulations suggest a contrary result. If center-based care is exempt from state or local regulation, they suggest the state is under no obligation to develop and apply basic health and safety protections to such exempt care. Rather, they suggest that the state must ensure that centers meet these health and safety standards only if they are *already* subject to such standards under state or local law:

> The State IV-A agency must establish procedures to ensure that center-based child care will be subject to *applicable standards* of State and local law including those *designed to ensure basic health, safety protection, and fire safety.* Sec. 255.5(a). [Emphasis added]. *See also* Preamble at 15669.

B. *The Regulations Improperly Encourage Informal, Child Care Arrangements.* A General Accounting Office report documents that in some states, welfare-to-work programs have steered recipients toward informal, unpaid child care arrangements before informing them that subsidized care is available. Responding to such concerns, the Family Support Act requires that AFDC applicants and recipients be informed of the availability of child care assistance, and requires that states guarantee necessary child care assistance. The Preamble to the proposed regulations, however, encourages states to resort to informal arrangements:

- In discussing whether lack of necessary child care constitutes good cause for failure to participate, the Preamble directs that " . . . the State IV-A agency *should* determine whether there are any other individuals in the home who are capable of providing the necessary care." Preamble at 15651. [Emphasis added]. Thus, states are encouraged to conclude that informal care can be provided within the recipient's household even when the recipient asserts that such care in unavailable—an extraordinary intrusion by the state and an improper insistence that informal care be provided even when a relative appears unwilling to serve as a provider.
- Similarly, the Preamble notes that "[f]requently, child care is provided through informal arrangements at no cost. The child care guarantee does not mean that paid child care must be available for every participant. In determining whether child care is necessary, the State IV-A agency may take into account informal care." Preamble at 15666.

While parents should be allowed to use informal arrangements if they choose, a state priority for informal care arrangements is bad policy and bad law. Informal child care works best as a short-term, part-time arrangement. In California, the Child Care Law Center notes that informal arrangements typically break down as GAIN participants move into longer-term, more full-time activity.

Particularly given the regulations' insistence that mothers of young children participate 20 hours a week, we know that informal arrangements will break down, causing interruptions in participation and disruption for parent and child. HHS should be encouraging states to invest in stable child care arrangements that help parents move toward long-term self-sufficiency. The Preamble's emphasis on informal care is grossly misplaced.

In undercutting the child care promises embodied in the Family Support Act, the Department of Health and Human Services is in effect denying the benefits of the Act to thousands of poor children and their families. Without adequate child care, parents cannot even began to move toward self-sufficiency. We urge you to convey the concerns we have addressed to Secretary Sullivan, and to take all appropriate steps to ensure that final regulations more faithfully implement the promise of child care services embodied in the Act.

PREPARED STATEMENT OF DIANNE EDWARDS

Mr. Chairman and Committee Members: My name is Dianne Edwards. I am Director of Adult and Employment Services for the Orange County, California, Social Services Agency. Orange County has a population of approximately 2 million people and the county's AFDC caseload is 19,000 families, which is approximately three percent of the statewide caseload. Orange County implemented California's GAIN program September, 1988, and we expect to serve approximately 5,500 active participants when the JOBS program is fully implemented.

I am also Chair of the GAIN Committee of the County Welfare Directors Association of California (CWDA) and it is in this capacity that I would like to offer my comments today. The Association appreciates the opportunity to present its views to the committee on the proposed regulations to implement the Family Support Act and JOBS.

First, I would like to say that CWDA is in full agreement with the comments presented by Dennis Boyle, Deputy Director of the California Department of Social Services. California county welfare departments have enjoyed an important partnership with the State Department of Social Services and the California Legislature as counties have implemented the Greater Avenues for Independence (GAIN) program. State and county staff have worked closely together to develop program policies which ensure that local operational needs are addressed. In California, GAIN's growing success is in part due to a recognition by state policy makers that the success of GAIN is dependent upon the ability of California's 58 county agencies to make it work "in the real world." CWDA encourages Congress and the federal government generally to approach the JOBS program with that same spirit of partnership and practicality.

CWDA is very optimistic about the Family Support Act (FSA) and the new JOBS Program. We commend Congress for its leadership in initiating long-needed national welfare reform and we hope that the approach California has taken will provide the committee with useful insights as you review the proposed JOBS regulations.

From the view of California counties, it seems unlikely that Congress intended that the JOBS program should disrupt existing prototype welfare reform programs such as GAIN. Therefore, we call your attention to five areas in the proposed regulations which would negatively affect the current employment and training efforts already underway in California. These five areas are:

1. Proposed limits on child care for JOBS clients.
2. Required achievement of a minimum 8th grade literacy level.
3. U-Parents and the phase-in of the JOBS caseload.
4. Proposed data collection requirements.
5. Proposed limitations on the use of on-the-job training (OJT).

1. PROPOSED LIMITS ON CHILD CARE FOR JOBS CLIENTS

Child care is a critical need for working parents. National, state and local policy makers continue to search for ways to deal with the dilemma facing so many parents, and as California counties know from our experience with GAIN, without the provision of adequate child care, mandatory education and employment training programs like JOBS will be severely hampered. With the importance of child care in mind, it is CWDA's view that certain proposed regulations appear to thwart rather than enhance a state's ability to provide necessary child care and promote maximum participation in JOBS.

First, proposed Section 255.4 limits FFP to the existing federal disregard or the applicable local market rate based on the 75th percentile cost of such types of care in the local area. California currently allows a regional market rate set at approximately the 90th percentile level. CWDA is concerned that the 75th percentile limitation on child care reimbursement will have a negative impact on participation in the JOBS program. In the Association's view, this limitation will create a major barrier to JOBS participation in many communities, particularly urban areas where the majority of child care providers charge rates close to the mean market rate. CWDA recommends that FFP should be available to states at the regional market rate to ensure that the child care needs of JOBS participants are addressed. Without this crucial support service, client participation in JOBS will be severely restricted.

Second, while it appears that Congress provided transitional child care to ensure that the lack of affordable child care would not be a barrier to self sufficiency, the proposed regulation Section 256.2(b)(3) would restrict FFP for payment for transitional child care benefits. Specifically, the law authorizes AFDC clients to receive a full twelve months of transitional child care when they leave assistance to take a job. However, the regulations appear to set differing parameters, depending upon when a client applies for child care assistance. Under the proposed regulations, the twelve-month transitional assistance "time-clock" would begin the date the client becomes ineligible for AFDC because of a job and end 12 months from that date. However, payment for child care would begin the date the client applies for this assistance. Under this scenario, clients would be denied a full twelve months of transitional assistance. The language of these regulations also appears to prohibit a retroactive payment for child care for any month prior to the month an application is made for this assistance. Again, the full twelve month period of assistance would be denied to the client. It is CWDA's position that this provision of the regulations inappropriately and arbitrarily restricts the availability of the full twelve months of child care assistance to AFDC clients who leave assistance to take employment.

Third, proposed Section 255.1(j) requires a description in the state plan of the methods the state will use to assure the availability of sufficient child care. However, under proposed Section 255.4(f) no federal match is allowed for recruitment or training of child care providers or resource development. County experience with the GAIN program has demonstrated that child care recruitment, resource development, and training for providers is critical to promoting a supply of available child care—which in turn is critical to the overall operation of a mandatory education and training program. In California, GAIN is directed to parents with children age 6 and older. Under JOBS, this population will be expanded to serve parents with children age 3 to 6 and transitional child care benefits will be provided to all AFDC clients under the Family Support Act. All of these parents will turn to a child care system whose current demand exceeds supply. Clearly, recruitment, resource development and training will be critical elements of a strategy to increase the supply of available child care. California currently funds these activities under GAIN and CWDA recommends that FFP should be available for these same activities under the JOBS program.

2. REQUIRED ACHIEVEMENT OF A MINIMUM EIGHTH GRADE LITERACY LEVEL

Under proposed Section 250.44(a)(2), the federal regulations would require that a minimum of an eighth grade equivalent literacy level be achieved by all JOBS participants. This requirement raises an important policy question about the level of competency needed for self-sufficiency. In California we are finding that half of those who enter the GAIN program have serious remediation needs. In Orange County, for example, of 1,300 active participants in GAIN, 719, or 56%, are attending remedial education classes. Of these 719 individuals, 442 are in English as a Second Language (ESL). Like Orange County, many California counties are impacted by a high number of refugees who are neither literate in their native tongue or able to communicate in English.

It is CWDA's view that an 8th grade equivalency level may be too high for certain individuals and unnecessary in certain labor markets for clients to achieve self-sufficiency. In California, the GAIN program will bring participants up to a basic proficiency level of sixth grade, based upon a specially designed job-related testing instrument. CWDA therefore recommends that the federal regulations provide flexibility to states and counties to establish educational standards which are consistent with local labor market needs and not specifically require a minimum of an eighth grade literacy level.

3. U-PARENTS AND THE PHASE-IN OF THE JOBS CASELOAD

In the Association's view, the proposed regulations under Section 233.100 are vague and ill-defined. The regulations state that no FFP will be available for U-parent families "for any period beginning with the 31st day after receipt of aid . . . if no action is taken during the period to undertake appropriate steps directed toward the participation of such parent."

California counties are very confused by this language. What is meant by "appropriate steps directed toward participation?" Would a notice to attend the JOBS program orientation fulfill this requirement or would a U-parent be required to have completed orientation or a subsequent stage of the program? Is the prohibition directed to the federal share of the AFDC grant or is it the federal funds appropriated for the JOBS program?

If the proposed regulation is designed to require full JOBS participation by all U-parent principal earners by the 31st day the family is on aid, this requirement is wholly unrealistic and impractical. In California, the no-show rate to GAIN orientation programs is approximately 50%, and it is only through follow-up that the balance of clients are brought into the system. Active participation in an education or training component by the 31st day would be an impossible standard to achieve because the logistics associated with client flow through program components would preclude this time frame. Under GAIN, California counties have developed local plans and systems to accommodate a phase-in of caseloads. This phase-in process is the result of thoughtful local planning based upon local needs and the resources available. CWDA recommends that any requirement of U-parents to participate in JOBS by the 31st day apply only to the client having participated in the JOBS orientation. We additionally recommend that this proposed regulation section be generally clarified as to its intent, and that states and localities be provided flexibility to phase-in caseloads in a manner which best maximizes the use of available resources.

4. PROPOSED DATA COLLECTION REQUIREMENTS

New programs always bring with them new data collection and reporting requirements. It is CWDA's view that the proposed JOBS regulations would impose excessive new reporting and tracking requirements. California is currently implementing data tracking and reporting systems for its GAIN program. The imposition of new and substantially different reporting requirements will throw our current data system implementation into disarray, and the substantial investment of time and money already made to collect and report data for the GAIN program will be negated.

CWDA requests that the committee seriously consider the reporting requirements proposed in the regulations for the JOBS program in light of the impact they will have on local jurisdictions. We believe Congress would be better assisted in its efforts to achieve the goals of the JOBS program if the data collection and reporting requirements were focused on such things as program content, client caseload flow through program components, rates of client participation by component, barriers to client participation, the availability of child care, employment placement data, and similar outcome-oriented measures. We believe it is this type of information—focused on outcome as opposed to process—which will permit Congress to conduct a thoughtful evaluation of state and local efforts, far more than the audit-type approach involving confidence intervals which has been proposed in the federal regulations.

In general, CWDA is troubled by the overall thrust of the regulations regarding data collection and the definitions of participation and satisfactory progress. We are concerned that the failure of the regulations to recognize and give credit for orientation and assessment will lead states to avoid the long-term AFDC caseload—the very caseload which is the most difficult to educate, train and move to employment—and instead focus on the caseloads which are most amenable to education and employment services. As I mentioned earlier, approximately half of all GAIN clients fail to attend orientation without follow-up by the agency. If orientation and assessment activities are not credited, there will be no incentive to follow-up on the clients who are least amenable to services. Furthermore, by requiring "good and satisfactory" progress as a measure of participation, the phenomenon known as "creaming" will likely occur and it will be those clients who are most job-ready who reserve services. We believe this likely outcome would have serious policy implications for the JOBS program and its overall Impact on the long-term, hard-to-serve AFDC population. CWDA recommends the regulations be modified to recognize all of the required activities necessary for implementing the JOBS program so that incentives are not created to avoid the hard-to-serve AFDC populations.

5. PROPOSED LIMITATIONS ON THE USE OF ON-THE-JOB TRAINING (OJT)

It is the experience of California counties that on-the-job training (OJT) services have consistently proven to be an effective tool in putting people to work. CWDA is concerned, therefore, that limitations placed on the use of Work Supplementation (Reference preamble, page 15657, third column, and proposed rule 250.62(b)(2)) will inappropriately restrict the use of Work Supplementation for developing OJT positions and thereby reduce the employment options for many JOBS participants.

Experience has shown that placing individuals in existing positions with an OJT employer provides a great chance for success. However, new "expansion" positions created by an employer are often more risky to create than filling existing positions. The proposed regulations would restrict OJT positions which are funded using Work Supplementation to only those jobs which did not previously exist."

While the regulations impose the same restrictions on all Work Supplementation positions as those that apply to CWEP, CWDA recommends that the restrictions apply only in those circumstances where the participant is not given true "employee" status. In on-the-job training, participants are typically given this "employee" status. If we are to succeed in JOBS we need to increase—not restrict—the number of situations where JOBS participants can obtain employee status. CWDA recommends against this proposed limitation regarding on-the-job training.

The County Welfare Directors Association of California appreciates the opportunity we have been provided to discuss our recommendations regarding the FSA and JOBS regulations. I would now be pleased to answer any questions you may have.

PREPARED STATEMENT OF MARK GREENBERG

Members of the Subcommittee:

My name is Mark Greenberg. I am a Senior Staff Attorney at the Center for Law and Social Policy. The Center for Law and Social Policy is a public interest law firm which engages in advocacy on issues affecting low income families. Since enactment of the Family Support Act, we have been actively involved in analyzing, writing and speaking about state choices in implementing the JOBS Program.

Today, I want to raise concerns about how AFDC recipients may be affected by the proposed JOBS regulations in three areas. I will focus on how the regulations treat individuals who want education and training; deal with problems in program participation; and treat educational requirements for recipients under eighteen. In each area, the proposed regulations seem inconsistent with Congressional intent, and in some instances, inconsistent with clear statutory language.

PERSONS WHO WANT EDUCATION AND TRAINING

When enacting the Family Support Act, Congress recognized that many AFDC recipients do not need to be mandated to participate in education or training; rather, they will gladly participate if given an opportunity to do so. Accordingly, the FSA contains a number of protections for persons wanting to volunteer to receive education and training. Unfortunately, the proposed regulations undercut every one of these protections.

The FSA provides that states must inform all applicants and recipients of the program, and must notify recipients of the opportunity to indicate their desire to enter the program, including a clear description of how to enter the program, within one month of this orientation. Sec. 482(c). The regulations track this statutory provision, but do not say that a state must do anything in response to a request to enter the program. [Proposed] § 250.40. A request to enter the program may be left pending indefinitely.

Second, the FSA provides that, within the federal target groups, states must give priority to those who volunteer to participate. Sec. 402(a)(19)(B)(ii). By enacting this provision, Congress did not create a general priority for volunteers, but said that among those groups viewed as most in need of services, first priority should be given to those who volunteer. The proposed regulations, at § 250.31, repeat the statutory requirement. But language in the preamble gives the regulation a completely different meaning. The preamble says that the priority for target group volunteers does not usurp the state's ability to determine the type of program it offers, because:

> Several factors may affect a State's decision on priority services including (1) goals of the State program, (2) availability of resources, and (3) the effect of selection of individuals to participate on the State's ability to meet participation rate standards.

54 Fed. Reg. 15649. An example will show how the reference to participation rates undercuts the priority for target group volunteers. Suppose a recipient is a target group member because she received AFDC for the last 3 years, but she's exempt because she has a two year old child. She wants to volunteer and participate in a skills training course for fifteen hours a week. The state ought to be considering this is a reasonable activity plan, and if it will help her toward self-sufficiency, the state should encourage the participation. But under the preamble, the state may reject her request, no matter how reasonable and appropriate it may be, because fifteen hours of activities won't help the state meet the twenty hour rule to satisfy participation rates under the proposed definition of participation.

This turns Congress' priorities upside down. Congress wanted to emphasize participation by target group members. In fact, the only place where the statute says a state may limit volunteers is if such a limit if necessary to assure that at least 55% of state resources go to target group members. Sec. 402(a)(19)(B)(iv). In contrast, Congress did not say that states could or should deny target group members access to program services in order to help improve a state's participation rate. By giving a higher priority to satisfying a definition of participation than to facilitating constructive and appropriate activities by target group members, the regulations have the effect of telling states and recipients that measuring participation is more important than obtaining results.

Unfortunately, the regulations go further in limiting program access for volunteers. Even if a volunteer agrees to participate at a level that counts toward participation. rates, the state may still effectively exclude her under the view contained in the preamble, by denying supportive services. The FSA says that for any individual participating in JOBS, the state must provide for transportation and other work-related expenses, including supportive services, which are necessary to enable the individual to participate. Sec. 402(g)(2). The proposed regulations instead say that the state must provide for supportive services determined necessary for an individual to participate as required in JOBS. [Proposed] § 255.2(c). In other words, the mandate for transportation and supportive services only applies to those required to participate.

Similarly, the FSA guarantees child care to each individual participating in an education and training activity, including JOBS, if the state approves the activity and determines the individual is satisfactorily participating. Sec. 402(g)(1). But preamble language says that child care must be guaranteed only to the extent necessary for an individual to accept or retain employment, or to participate in a JOBS activity the state is requiring. 54 Fed. Reg. 15670.

There is no basis in the FSA for this distinction between child care and supportive services for volunteers and for persons required to participate. But under the HHS view, the state can advise a target group member with a two year old that she is welcome to participate, but the state will not provide her with child care or transportation. As a practical matter, this is no different from telling her she cannot participate.

By its treatment of exemptions, target groups, and. child care and supportive services, Congress demonstrated that it wanted a program that was accessible to parents of young children. It is inappropriate for HHS to use federal regulations and preamble language to invite states to deny that access.

PROBLEMS IN PROGRAM PARTICIPATION

Two aspects of the regulations concerning sanctions are disappointing, a third seems to clearly violate federal law. When addressing recipient protections in the sanction arid dispute resolution process, the Department has been willing to leave the matter to the virtually unrestricted discretion of states.

The FSA provides that each state must establish a conciliation process for resolution of disputes involving an individual's participation in the program. Sec. 482(h). Conciliation should be a critical step, because the goal of the program shouldn't be to sanction. Rather, it should be to identify and resolve the problem that is preventing participation.

The FSA doesn't define conciliation. But the word "conciliation" was taken from the WIN Program, where it had a clear meaning. The WIN Handbook explains conciliation is to occur when a person refuses to participate without good cause, and that the purpose of conciliation is to utilize all appropriate program resources to remove social, economic, physiological and psychological barriers to participation in the program and within program limitations, without compromising program standards and integrity. The WIN Handbook mandates that a state at the conciliation stage must make at least two attempts to contact the individual personally, and arrange a face to face interview if possible. Where a need for social services is the reason for non-participation, staff should work with the person to plan and initiate activities to remove barriers.

The proposed JOBS regulations reflect a different approach. They provide no definition of conciliation, and set no minimum standards. Instead, the regulations simply say states must have a conciliation process, and describe it in their state plans. [Proposed] § 250.21(c)(1), 250.36. The preamble offers general and non-binding guidance. 54 Fed. Reg. 15652. Under the regulation, states appear to be free to set up a minimal process, which may involve nothing more than a warning that the individual will be sanctioned if she doesn't participate.

The proposed regulations are equally skeletal in their treatment of good cause for failure to participate. The FSA does not include a general list of instances that constitute good cause for failure to participate. It only describes several situations relating to child care problems and failure to accept employment if it would result in a net loss of income Sec. 402(a)(19) (G), (H). Since this is plainly not intended as a comprehensive list of examples, many persons anticipated that HHS would use the regulations to set out minimum standards that states must recognize for good cause purposes. Instead, the proposed regulations merely follow the statutory language.

[Proposed] § 250.34. The regulations then provide that the state may set other grounds for "good cause" in its JOBS plan. § 250.34(d). The preamble notes that these could include such events as inclement weather, breakdown of transportation and/or child care arrangements, short-term illness not requiring a doctor's care, or a family emergency. 54 Fed. Reg. 15651. However, whether to count these or any other instances appears left to the discretion of the state. Surely many states will develop their own detailed and thoughtful listings of good cause; but the reason for federal regulations should be to set minimum safeguards, and these regulations don't set any.

The proposed regulation concerning sanctions appears to directly violate the FSA. The FSA provides that in the case of a first offense, a recipient's sanction will last until the failure to comply ceases. Sec. 402(a)(19)(G)(i). In contrast, the proposed regulation provides that for the first offense, states may require some sort of participation (to be defined by the state) for up to two weeks before removing the sanction. [Proposed] § 250.34(b). This seems flatly inconsistent with the FSA. The statute says the sanction shall continue "until the failure to comply ceases," not until two weeks after the failure to comply ceases.

Taken together, regulations on dispute resolution seem to let states have a negligible conciliation procedure, a minimal definition of good cause, and onerous reinstatement procedures which prevent a recipient from ever curing her first sanction. There is no justification for HHS allowing such unrestricted discretion in areas central to the protection of recipient rights. I appreciate the importance of state flexibility in operating the JOBS Program, but Congress envisioned a structure that assures basic procedural safeguards for recipients, and the proposed regulations do not provide those safeguards.

EDUCATIONAL REQUIREMENTS FOR RECIPIENTS UNDER EIGHTEEN

Finally, HHS' approach to educational requirements for recipients under eighteen also seems inconsistent with the language and intent of the FSA in two respects.

The FSA has a general requirement that custodial parents under 20 who have not completed high school or its equivalent must be required to participate in an educational activity, subject to state resources and program availability in the political subdivision. Sec. 402(a)(19)(E)(i). The FSA then provides that states may exempt those under 18 from the requirement, under criteria adopted in accordance with HHS regulations. Sec. 402(a)(19)(E)(ii)(II). In contrast with the statute, the proposed regulations provide that a state may only exempt a custodial parent under 18 from the requirements if the parent is beyond the state's compulsory attendance laws, and if the state's JOBS plan contains criteria, which (i) provide for individualized rather than categorical exemptions; (ii) do not solely rely on grade completion; and (iii) provide for participation in another educational activity. [Proposed] § 250.32(a)(2).

The restriction on exemptions for parents under 18 seems inconsistent with Congressional intent. The issue here is not whether young parents should be encouraged to be in an educational activity; the issue is what is the best way to encourage and provide that education. In recent years, some states have expressed interest in relying on mandatory school attendance requirements, with the threat of grant termination for a teenager who does not stay in school. But there is no broad consensus on whether it is sound educational practice or social policy for a state to threaten to cut off the income of a young parent in order to encourage school attendance. There are many reasons to believe this may not be the best approach: If the school is not able to provide flexible scheduling, an appropriate curriculum, and needed supportive services, a mandated return to school may simply create an adversarial setting that will have a long run negative impact on the young parent's attitude toward education. Teachers and administrators that have not previously known students' status as welfare recipients may now filter their educational judgments based on the special rules and expectations that will apply to this group. The initial months of parenting may be severely disrupted. Infants and other family members will suffer lost income for basic needs when the school and welfare department conclude that an AFDC recipient is not meeting their mandated attendance requirements.

In implementing the FSA, some states may choose to mandate educational attendance by very young parents, and to rely on the coercive effect of possible grant reduction to attain educational participation. But other states will want to explore alternative approaches, relying on enriched programs and voluntary services. Congress did not mandate one single approach. Instead, the FSA envisioned that states would have the flexibility to exempt persons under 18 from mandatory requirements, so that those states that wish to emphasize voluntary participation and positive incentives may do so. Yet the proposed regulations deny states that flexibility.

Finally, current AFDC regulations prohibit a state from denying AFDC to a child under eighteen because of failure to make satisfactory grades. 45 C.F.R. § 233.90(b)(2). HHS proposes to eliminate this protection. 54 Fed. Reg. 15673. HHS suggests that the current provision is inconsistent with Congressional concerns about school attendance for teenaged recipients. But there is a major difference between school attendance and grades. If a child is attending school but not making high enough grades, it may make sense to reassess her needs, and identify services that could help her. But Congress did not suggest that if a child is making her best efforts, the state is free to cut off her subsistence income because she is not making good enough grades. The proposed regulation repeal is unwise and unlawful.

CONCLUSION

I appreciate the very open process that HHS has used in the development of its proposed regulations, but believe that the final product needs significant revision to comply with the language and intent of the FSA.

PREPARED STATEMENT OF ROBERT GREENSTEIN

I appreciate the opportunity to appear before the Subcommittee today. I am Robert Greenstein, director of the Center on Budget and Policy Priorities, a nonprofit organization that conducts research and analysis and provides technical assistance on a range of public policy issues affecting low income families and individuals. In recent years, one of the areas on which the Center has concentrated has been the design and implementation of education, employment, and training programs for recipients of public assistance programs.

The passage of the Family Support Act last year represented an important step toward reforming our welfare system. Much of the challenge still lies ahead, however, with state implementation of the new law.

A cornerstone of the Act was the principle that states should be provided the flexibility needed to enable them to design well-targeted and cost-effective education, training and employment programs. In addition, the Act reflects a strong Congressional concern that initiatives be adequately focused on recipients who have greater barriers to employment and who are likely to remain on welfare for long stretches of time unless they are effectively assisted in achieving self-sufficiency.

Both of these statutory objectives—to provide state flexibility and to assure that adequate services are focused on those otherwise likely to become long-term welfare recipients—are rooted in research and in state experience. Much of the impetus for last year's law grew out of the establishment in recent years of a number of state education, employment, and training initiatives. Various states achieved some measure of success with widely differing types of programs. In addition, most policymakers, analysts, and administrators involved with efforts to improve the nation's welfare system were struck in recent years by research findings showing how varied the welfare caseload is—with substantial numbers of recipients leaving the rolls on their own after short periods of recipiency, but significant numbers of other recipients remaining on the rolls year after year.

PROPOSED REGULATIONS

Unfortunately, the proposed regulations issued by HHS include provisions that are likely to impede rather than facilitate the achievement of these two objectives. In a number of critical areas, the regulations unduly restrict state flexibility. The regulations would effectively require many states to spend some of their employment and training resources inefficiently. In addition, states would be forced to divert substantial amounts of resources into new tracking and reporting systems that would greatly increase paperwork while diminishing the amount of funds available for the actual provision of education, employment, and training services. These outcomes would, in turn, make it more difficult for states to provide the intensive treatments often needed to break the welfare cycle and move the more intractable long-term cases off the welfare rolls and on to payrolls.

The regulations appear to represent an example of the not-so-infrequent tendency of federal bureaucracies to distrust and heavily overregulate state and local governments in ways that can stifle initiative and creativity and obstruct rather than foster the realization of Congressional goals. Indeed, I fear that in some states already operating major welfare-to-work programs, the regulations could actually force the alteration of programs in ways that could decrease their effectiveness in combatting long-term dependency.

In this testimony, I will highlight a few aspects of the proposed regulations that are particularly troublesome. However, the number of provisions that seem ill-advised is significantly larger than those enumerated here.

THE "HOURS REQUIREMENTS"

The regulations would require that to count toward meeting the Act's participation standards, "participation" in an employment or training program must consist of at least 20 hours of activity a week, while participation in on-the-job training or work supplementation must be on a full-time basis. This particular regulatory proposal would lead to a number of results at odds with what the framers of the legislation sought to achieve.

The most fundamental problem with these proposals is that they run counter to the lessons we have learned from state experience and from the research conducted by such institutions as the Manpower Demonstration Research Corporation. The MDRC research, along with research by scholars such as David Ellwood and Mary Jo Bane, makes it clear both that substantial numbers of recipients leave the welfare rolls quickly on their own and that for such recipients, welfare-to-work programs generally do not have large impacts or yield large savings.

At the same time, the research findings tell us that there are a significant number of recipients who remain on the welfare rolls year after year and that these recipients tend to have more serious barriers to employment and less education and prior work experience. In addition, MDRC has found that the non-intensive state welfare-to-work programs which have predominated in recent years have had little or no impact on this group. In contrast, the Supported Work Demonstration conducted a number of years earlier, which consisted of a much more intensive intervention, did prove successful for this group. Moreover, recent GAO studies of the Job Training Partnership Act have concluded that more intensive interventions yielded more impressive results for hard-to-employ JTPA enrollees.

These research findings—along with the fact that the widely acclaimed state initiatives which led to the JOBS legislation generally provide fewer than 20 hours a week of activity—indicate that for the most job-ready recipients, only very low-cost interventions are needed or desirable. Requiring states to provide 20 hours a week of activity for recipients who are likely to find jobs on their own—and to "cycle off" welfare quickly even in the absence of a welfare-to-work program—is an inefficient use of limited resources. Many of these recipients need nothing more than a limited program to assist in locating employment, such as a modest job search program.

By the same token, the research findings indicate that for the recipients otherwise likely to become long-term dependents, far more intensive (and consequently, more expensive) interventions are likely to be needed. In many states, the resources to conduct these more intensive interventions are not likely to be available if resources are squandered by administering a 20-hour requirement for job-ready recipients who do not need a program component entailing this level of activity. Moreover, if recipients are required to engage in a 20-hour JOBS component when such a level of activity is unnecessary, then states will also have to provide more hours a week of child care services for some recipients than should be needed.

Resources would be squeezed still further by the need to establish complex tracking and reporting requirements to keep track of the number of hours of activity each week. States do not now have the tracking and reporting mechanisms necessary to comply with such requirements. Creating and administering these systems would be expensive. Each dollar spent on tracking, recording, and compiling reports on hours of participation would be money not spent on the provision of education, training and work services.

The rigidity of the hours requirements thus threatens to shift the focus of JOBS from enabling states to design responsive and cost-effective programs to forcing states into somewhat of a pre-determined federal mold in order to meet rather arbitrary federal regulatory standards.

The hours requirements also seem to confuse the duration of activity with the quality and effectiveness of the activity. Furthermore, the standards seem to regard recipients who are in very different circumstances (and possess very different levels of skills and work experience) as though their needs and situations were largely the same. The standards would be likely to result in many states designing a program entailing the same number of hours of activity for a recipient who is job-ready as for a recipient who has significant barriers to employment and needs intensive services before she can become employable. In this manner, the proposed hours standards run counter to the notion of a program tailored to address the individual needs of recipients as determined by their employability plans. The standards would diminish a state's ability to make judgments about the most appropriate level of service and resource expenditure for individual recipients.

Inefficient use of limited resources would also be expected to result from the likelihood that some states would find it necessary to develop "filler" activities to raise a participant's hourly level of activity to 20 hours a week, even if the filler were inappropriate or wasteful. Some states might find they had little choice but to stretch out effective programs that currently entail less than 20 hours of activity—or to select contractors based more on whether their programs provided activity for the requisite number of hours than on whether the contractors performed most effectively in improving recipients' employability or placing them in jobs.

Such "filler" activities would be especially likely in rural areas where, for example, the lack of a sufficient number of employers can make it impossible to undertake 20 hours of meaningful job search activities each week.

Although HHS contends that a standardized hours requirement is needed to prevent states from "gaming the system" with meaningless activities, the rule is likely to result in just what it seeks to prevent. Each time a state adds hours to the participation level of a recipient simply to comply with an arbitrary federal hours standard, valuable state and federal dollars are used poorly. The costs of adding these marginal pieces, which can involve significant expenditures for support services as well, may be at the expense of serving other recipients who may need intensive service to escape from long-term dependency.

The proposed hours requirement poses particular problems for serving mothers with young children, one of the primary groups Congress intended to target. When Congress expanded work requirements to mothers with children under six, lawmakers specifically limited the requirement to a maximum of 20 hours a week in recognition of the fact that a full-time work requirement cannot be imposed on a mother with a child this young. Yet HHS has effectively turned the maximum requirement for parents with young children into a minimum requirement for purposes of measuring whether a state is meeting the participation standards, since employment or training activity of less than 20 hours a week would not count toward meeting the standards.

This minimum requirement is likely to be inappropriate or infeasible for some of these mothers since it would often require them to be separated from their young children for well in excess of 20 hours a week, given transportation time to and from both the JOBS activity and a child care site. As such, costs for child care would be increased further. Furthermore, a 20-hour minimum requirement for mothers with young children may, in some areas, require forgoing opportunities to design appropriate JOBS placements that can accommodate the schedules of developmentally enriched child care programs operating only during morning hours, such as Headstart, or of morning kindergarten classes. Compounding the problems posed for mothers with young children is the provision in the regulations that participation in on-the-job training or work supplementation would not count toward the participation standards unless it were on a full-time base. This would effectively preclude on-the-job training and work supplementation for these women, even when such activities are those most appropriate to help them attain self-sufficiency.

The regulations are also problematic in their treatment of two-parent families; the regulations erect cumbersome and conflicting participation standards for these families. The Family Support Act requires that a parent in a two-parent family must engage in work activity for 16 hours a week in order to satisfy the statutory participation standards for such families. However, under the regulations, this 16-hour-a-week work activity would not count toward meeting the basic JOBS participation standards—since the regulations require 20 hours of activity a week to satisfy these standards.

The result is that states would generally be compelled to stretch out the 16 hours of activity for two-parent families to 20 hours (or to patch together an additional four-hour activity component). Given the abundance of research findings showing that except for some low intensity job search efforts, welfare-to-work programs generally have little or no net impact on improving employment rates among two-parent families (since such families tend to leave welfare rolls and return to employment quickly on their own), it is likely to prove quite inefficient to require the addition of four hours of activity for this group. Those resources would be far better spent on other recipients with more severe employment barriers. At a minimum, this is a choice that states should be permitted to make for themselves. It should also be noted that these provisions effectively circumvent the statute, since they are likely to transform the 16-hour requirement expressly written into the law into a 20-hour requirement in actual practice.

The Department has tried to minimize the concerns about the hours requirement by stating that these requirements govern only those activities that are necessary to meet the "modest" participation rates set forth in the statute. As CBO and other analysts have indicated, however, the *monthly* calculation of state participation rates, as mandated by the Act, requires substantially higher rates of participation than might at first blush seem to be the case. To meet the 20 percent participation standard that will eventually take effect under the Act, a state must aim for a participation rate much higher than 20 percent because of such factors as the time required to conduct an assessment and develop an employability plan for the recipient, the time between components when a recipient completes one education, training, or work component and is waiting to be placed in another, the substantial numbers of recipients who leave AFDC on their own before they can be placed and can participate fully in a JOBS component, and the numbers of recipients who do not comply (including volunteers who drop out of JOBS, persons excused for good cause, and those who ultimately are sanctioned). The findings of both MDRC and CBO, as well as analyses conducted by individual states, amply demonstrate that these participation standards are considerably more rigorous than many policymakers may believe.

As a final observation on the hours requirements, I would note that the experience of the Food Stamp Employment and Training Program may be instructive. In enacting the food stamp legislation requiring states to establish such programs, the Agriculture Committees had some of the same concerns the Finance Committee seems to have had in enacting the JOBS provisions. The Agriculture Committees wanted to be sure that "participation" occurred in reality and not just on paper. Yet the manner in which USDA responded to this concern differs greatly from the HHS response.

In final regulations issued in December 1986, USDA required states to demonstrate, in their state plans, that each education, training, or work component was adequate. To meet this test, USDA generally requires that a component entail activity equivalent to at least 12 hours a month for two months. If a component is approved, states are not required to track the hours of activity of individual participants.

This approach was designed to minimize paperwork and to ensure a minimum level of activity that was sufficient to assure that compliance was not just on paper, but also modest enough to allow low cost activities for the most job-ready recipients. In promulgating this requirement, USDA noted in the preamble to the regulations:

> ". . . [since] there will be so many variations in the nature of the components offered, it would be unrealistic to insist on a specific minimum level of effort for each participant. In an effort to provide guidance to State agencies in designing their employment and training components the Department offers a level of effort comparable to 12 hours per month per participant for two months as the type of effort we would like to see States use as a minimum. That is not to say that the Department will not consider and approve components which entail less time than this, if States can demonstrate in their plans that such components are meaningful. *We recognize that the quality of a component cannot be determined by the number of houts a participant spend engaged in the activity*" (emphasis added).

If an approach of this nature is satisfactory in a program such as food stamps where the benefits (and hence the savings from employment) are 100 percent federal—it ought to be satisfactory in AFDC, in which states have a large financial stake in moving recipients off the welfare rolls and into employment.

"STATEWIDENESS"

Employment and training programs can be difficult and costly to run in sparsely populated rural areas, since the transportation and other costs of mounting the programs can be high and be spread over relatively few participants. This problem is compounded when few if any job opportunities exist in such an area.

The statute recognizes this problem, enabling states to exempt parts of a state from the JOBS program if the state can demonstrate to HHS that it would not be feasible to operate the program in these areas, based on the local economy, the number of prospective participants, and other factors. The regulations, however, raise concerns about whether HHS will exercise this approval authority in a judicious manner.

The regulations stipulate that one of the factors HHS would take into account in ruling on such requests is whether a state is spending its full entitlement under the JOBS program. States whose legislatures do not appropriate enough funds to use up their full entitlement would apparently face greater difficulties in securing HHS approval to exempt any parts of the state from the JOBS program.

This could mean that the very states that have fewer resources available would be compelled to spread their limited resources thinly over all areas of the state. Moreover, it could mean a requirement for 20 hours a week of activity in rural areas where activities of this duration could be particularly inefficient. This could make it more difficult for such states to come up with the resources necessary to provide intensive services for long-term recipients in those areas of the state where job opportunities do exist for people who are employable.

CHILD CARE ISSUES

The child care provisions of the regulations provide further examples of ways in which overly prescriptive federal rules can impede rather than enable states to mount effective programs and to achieve the goals set forth in the federal legislation. The statute requires that states guarantee the provision of child care services for participants in education, employment, and training programs, for recipients who are employed, and for former recipients who are in their first year of employment after working their way off the welfare rolls. The regulations make it difficult for states to comply with these requirements.

The regulations stipulate that state efforts to recruit and train child care providers (so that an adequate supply of child care slots will be available) are to be treated as *unallowable state administrative costs,* for which no federal matching funds will be provided. In addition, the regulations deny federal matching funds for child care fees that are in excess of the 75th percentile for fees in the area, even if slots need to be secured from providers charging modestly higher fees in order to assure that sufficient child care is available to cover all JOBS participants.

And as noted above, the 20-hour requirement on participation in the JOBS employment and training components is likely to increase the need for child care services, at the same time that these other regulatory provisions make it more difficult for states to secure the requisite supply of care.

Finally, additional problems are posed by the proposed regulatory requirement that a new application for child care assistance be submitted whenever a recipient works her way off AFDC. In the late 1970s, when I was in charge of the food stamp program at USDA, a number of states had procedures under which families leaving the AFDC rolls were automatically cut off from food stamps at the same time—and had to reapply for food stamps—even if they were continuously eligible. We found these procedures to cause many eligible families either to lose their food stamps altogether or lose them for some period of time until they understood they might still be eligible, returned to the welfare office, completed a new application, and waited until the application had been processed. We remedied these problems by changing the federal regulations to require that households dropped from AFDC could not simultaneously be dropped from food stamps and made to submit a new food stamp application if they remained continuously eligible for food stamps.

I am persuaded that if the proposed requirement for a new application for transitional child care is not dropped in the final rules, substantial numbers of mothers who have worked their way off AFDC will lose their child care support for some period of time. Needless to say, this could have serious consequences, in some cases resulting in loss of a job and a return to the welfare rolls if child care arrangements fell through in the interim.

This is one more example of an instance in which the heavy hand of federal overregulation that marks these rules can undermine the goals of promoting self-sufficiency and reducing long-term welfare dependency.[1]

EDUCATIONAL ISSUES

Finally, I would like to discuss several of the education provisions of the proposed rules.

The statute requires that as part of its JOBS program, each state must provide instruction in English for individuals with limited English proficiency. The preamble to the proposed regulations seems to indicate, however, that English instruction need *not* be provided if a single employer in the area does not require English proficiency. The Department appears to be suggesting that as long as one employer provides jobs in which a participant could get by without speaking English (perhaps even if they are seasonal or other short-term jobs, such as farm labor), there may no longer be a responsibility to provide English instruction to enable that recipient to become more employable and self-sufficient over the long term. If this is what HHS intends, it hardly sounds representative of the opportunities for self-sufficiency that the JOBS program was designed to provide.

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[1] This section of the testimony is not intended to be a full recitation of the problems posed by the child care provisions of the regulations. Since there is a "child care panel" in these hearings, it is expected that other serious problems, such as the limitations the regulations would place on the child care guarantee and their apparent emphasis on informal care, will be discussed by other witnesses.

Also disturbing is the provision in the regulations that defines "basic literacy" as the equivalent of an eighth grade education. While the Department may have justification for proposing a definition consistent with that used by the Department of Education's Office of Vocational and Adult Education, we are concerned it may suggest to states the use of an inadequate benchmark for determining when to provide educational services for AFDC recipients. (In conformance with the statute, the regulatory provisions allow state discretion as to whether to provide additional education to individuals who have achieved "basic literacy" but whose employability would ultimately be enhanced by further education.)

National data on the relationship between educational levels, poverty, and welfare receipt paint a compelling picture of the need to provide education beyond an eighth grade level. In 1987, close to half (46.4 percent) of young families headed by high school dropouts lived in poverty. By comparison, one in five (20.5 percent) young families headed by high school graduates (who did not attend college) lived in poverty.

The figures are most alarming for families headed by young women. In 1987, nearly *nine out of ten* (89.4 percent) children in families headed by young women under the age of 30 who had not graduated from high school lived in poverty. Moreover, the median income of families headed by an eighth grade graduate was *less than half* (45 percent) the median income of families headed by a high school graduate. As states move to implement the JOBS program, it is critical that they strive to go beyond the lowest common denominator for educational services that is identified by the regulations.

CONCLUSION

Reviewing the regulations in their entirety, it appears that while in many cases the letter of the law has not been violated (although there are significant questions as to the legality of some regulatory provisions), the spirit and intent of the law have been dampened. Members of this Committee crafted the legislation and authorized substantial funding for meaningful education and training initiatives that would begin to address the serious educational and skills deficits of the welfare population. The Congress sought to step up to the daunting challenge of reducing persistent poverty and long-term dependency.

This is a critically important task, and one that will not be easy to achieve. Unfortunately, the proposed regulations would make the realization of these goals considerably more difficult—and would make it more likely that the Family Support Act would eventually come to be regarded as yet another well-intentioned piece of federal social legislation that turned out to yield disappointing results.

PREPARED STATEMENT OF JUDITH M. GUERON

Good morning. I am Judith Gueron, President of the Manpower Demonstration Research Corporation. I appreciate the opportunity to appear today before this Committee to share my observations on the regulations proposed by the Department of Health and Human Services to implement the Job Opportunities and Basic Skills Training (JOBS) provisions of the Family Support Act of 1988 (FSA). It is particularly beneficial that these hearings are being held so soon after the issuance of the regulations, at a time when HHS is welcoming feedback and suggestions.

In my remarks, I will begin by proposing several factors that should be considered in assessing the regulations. I will then discuss the implications of these factors for specific features of the regulations and conclude with some recommendations. Given the time available, I will limit my remarks to what I see as the several most important issues raised by the regulations.

A FRAMEWORK FOR ASSESSING THE REGULATIONS

My reaction to the regulations is shaped by three factors: the complex nature of the JOBS legislation, the lessons from MDRC's extensive research on employment and training programs for welfare recipients, and the state context in which these programs will be implemented. I will discuss each of these in turn.

The JOBS Legislation

The JOBS title is only one part of the FSA, which, as this Committee well knows, is a wide-ranging bill, which expresses what has often been called a new consensus about responsibility: the responsibility of parents to support their children and the responsibility of government to help people on welfare become employable and obtain work. To do this, the bill includes many changes that would make work more attractive (including transitional child care and Medicaid), that strengthen the enforcement of child support collections, that extend AFDC to two-parent families nationwide, and, finally, that create the JOBS program and related services.

As is typical with complex pieces of legislation, the JOBS title has many messages, some of them contradictory. It is both a departure from and an echo of the recent past. It contains without resolution many different views of the goals and means of moving people off welfare. It both builds on state initiatives and contains elements of federal prescription. Most particularly, it simultaneously pushes states in two directions. First, it emphasizes human capital development and the importance of investing to increase the employability of potential long-term welfare recipients. This suggests more expensive services. Second, it establishes the concept of monthly participation standards and extends a participation mandate to a much-enlarged share of the AFDC caseload (including, for the first time, mothers with children under six years old). This suggests serving more people.

The JOBS title includes but does not reconcile these different directions. This leaves a choice: they can be reconciled at the state level, in the actual design and implementation of welfare employment programs, or they can be reconciled in the regulations. The gist of my testimony is that the regulations move too far toward the second approach.

Another factor is critical in considering the JOBS title. Unlike, for example, the Job Training Partnership Act, which is 100 percent federally funded, JOBS establishes a three-tiered funding approach, which sets a floor for state investment at the WIN funding level of 1987 and encourages additional spending in a way that covers a higher share of poorer states' costs. Requiring a substantial state match for expanded programs is logical, because the AFDC program is a federal-state partnership. But it has enormous implications. It means that the federal JOBS legislation creates the opportunity for a new program but that it will be up to the states to make this actually happen at more than the most minimal level. There will be no major change in AFDC unless states put up their own funds to draw down the newly available federal funds. State action is the key to forward motion. Larger welfare employment programs will exist only if states want and are willing to pay for them.

This funding structure creates a critical context for the regulations. It means that it will be essential to provide states with an adequate incentive to translate the legislation's potential into a reality. Doing this is particularly challenging because JOBS is only one piece of the FSA. In varying degrees, funding for JOBS will compete with funding for other aspects of FSA, as well as broader state programs. This will be particularly hard for some of the poorer states, especially those that face the simultaneous challenge of starting a new AFDC-UP program, implementing the supportive service entitlements, and implementing JOBS.

Lessons of the 1980s

Fortunately, in developing regulations, Congress and the federal government can benefit from the extensive research that has been conducted in the 1980s on earlier state welfare employment programs. I will briefly summarize the key relevant findings.

First, we have learned that welfare employment programs can benefit both welfare recipients and taxpayers. They can lead to long-term increases in earnings and reductions in welfare expenditures. This evidence of impact and cost effectiveness is the critical rationale for expanded programs.

Second, we have learned that even low-to-moderate cost programs, which do not provide very intensive or expensive services, have long-term positive results. These are programs that usually involve, for example, far less than the 20 hours of activity per week proposed in the draft JOBS regulations. Importantly, we do not yet know the extent to which more expensive programs will lead to more successful outcomes.

Third, we have learned that low-to-moderate cost programs have different impacts on different people. There are usually no impacts on the most job ready; there are consistent gains for a middle group; and there is little change in earnings (although there may be some reduction in welfare grants) for the most disadvantaged. This points to the central role of the targeting provisions in JOBS and the importance of learning about the return to larger investments in education and other services for more dependent groups.

Fourth, we have learned a great deal about welfare caseload dynamics, that is, the process by which people leave the rolls on their own. This has implications for the implementation of JOBS. Welfare administrators must be careful to make caseload dynamics work for, rather than against, them in meeting participation targets. This pushes them to look for ways to avoid spending scarce resources up front on people who would leave the rolls very quickly without service.

Fifth, we have learned that more than half of the savings that result from these programs goes back to the federal treasury. As a result, the federal government has a big stake in encouraging states to expand these programs.

Sixth, and most critical for this discussion, we have learned that much of the creativity and will is at the state and local levels. One key reason the welfare employment programs of the 1980s were probably more successful than the traditional Work Incentive (WIN) programs is because they were state initiatives, fostered by federal flexibility. As Senator Moynihan has often said, these were the Governors' programs. This leadership largely explains why states invested substantial funds and why state staff responded more enthusiastically. It also explains why the programs looked so varied, reflecting vastly different resources and attitudes about what goals should be given priority in program design.

The State Context

As you know better than I, states will begin the implementation of JOBS from very different starting places. Some have run large programs and have considerable funds. Others are starting practically from zero and have very limited resources. This diversity is a fundamental issue that will affect how JOBS looks nationally. Further, most states have extremely limited systems capability. There is no state that we have studied, for example, that can now report accurately on actual weekly hours of program participation.

The experience of the recent past is our best predictor of the likely JOBS implementation story: states will put up very different amounts of funds for very different programs. While all states will face a theoretical requirement to serve all adult recipients with children three or over, none will have adequate resources to provide everyone with comprehensive services. States will have to make choices between "coverage" and "intensity," that is, between running programs that broadly cover a large number of people or programs that provide more enriched services to fewer people, or some combination of the two. Past experience suggests that states are likely to vary in their choices, reflecting different visions and resources.

I draw a very clear conclusion from the experience of the states in the 1980s, one that I would urge HHS to consider as it revises the draft regulations. The movement to restructure AFDC to include a participation obligation and to offer employment and education services will fail if states view this as exclusively a federal program. We should be worried if we stop talking about GAIN, REACH, Project Independence, ET Choices, MOST, and the dozens of other acronyms, and start talking about JOBS. Were these to stop being "the Governors' programs," states would no longer have such a clear interest in investing their funds to make them happen.

We have seen that states and the federal government have a joint commitment to running programs with a payoff, that states have shown new capacity to do this, and yet that states will choose to run programs of very different design and cost. In my judgment, it is vital that federal regulations continue to allow this.

IMPLICATIONS FOR THE JOBS REGULATIONS

All of this suggests that HHS faced an imposing challenge in formulating the draft JOBS regulations. The Department had to balance accountability and state autonomy, as well as the different messages in the law about the obligations of welfare recipients and the desirability of investments to reduce long-term welfare dependency. HHS staff are to be congratulated for the considerable effort required to produce the draft regulations, and for incorporating important lessons from the extensive body of available research.

In reacting to the regulations, it is critical to step back and look at how all of the pieces fit together. It is from this perspective that I would raise one central concern. Is the overall message for JOBS so demanding—considering together the provisions on statewide coverage, component designs, reporting, and, especially, intensity of participation—that it will undo state ownership and state investments, and even program effectiveness? I am concerned that the answer may be "yes." The particular provision that most directly tips the balance, in my judgment, is the one that requires states, as a condition of receiving a more favorable federal funding match, to assure that specified shares of the caseload average 20 hours of actual participation per week over a month, and to report on this accomplishment. While there are many areas one might respond to in the regulations, the rest of my remarks will focus on this issue.

Taken as a whole, the regulations seek to head off the unavoidable tradeoff, mentioned earlier, by requiring that states, in fact, run programs that are both intensive (in terms of hours) and serve large numbers of people. The regulations reflect a concern that, without federal prescription, states may make minimal efforts at either coverage or intensity. But the funding structure of JOBS, the experience with state initiatives, and the research lessons suggest several important questions:

- Does past experience provide any evidence that states can achieve the goals that the regulations set?
- What would states have to do to meet the requirements on the intensity (that is, hours) of participation, and does the evidence suggest that these changes will have positive effects on program impacts and cost effectiveness?
- How much difficulty will states face in meeting the reporting requirements, and do these requirements move beyond information needed for program management?

In addressing these difficult questions, it is important to understand three issues underlying the design and operation of welfare employment programs. The first concerns the phenomenon of caseload turnover. The dynamics of AFDC imply that a larger number of individuals have to be worked with in order to achieve actual participation by a much smaller number. As recipients leave the rolls (for example, in the middle of a month), potential countable participants (on whom the state has already spent resources) are lost—a desirable outcome for the program, but one that magnifies the task of achieving specific monthly participation objectives.

The second issue is related. The experience of past initiatives suggests that welfare recipients do not always attend scheduled activities. This means that a state, concerned about the financial risk of not meeting a target of 20 average weekly hours of actual participation, will have to schedule more than 20 hours and incur the additional cost of operating the program and providing child care during that longer period.

Third, and equally critical to the question of feasibility, is an obvious budget relationship. If it takes X dollars to deliver services and manage a program, it will take X plus Y dollars to prove that this has happened. Although it may be self-evident that reporting is not costless to states, the JOBS regulations suggest a level of detail for uniform reporting that will often go beyond what states will need to manage their JOBS caseloads. Further, while some funding for systems development is available at enhanced federal matching rates, additional state expenditures will be needed to produce the "proof."

These factors, combined with the research lessons and state context outlined earlier, affect the answers to the questions noted above.

Is it feasible for states to meet the regulations?

What does recent state experience suggest about the feasibility of simultaneously meeting the requirements on statewide coverage, component designs, reporting, and intensity of participation? In answering this, I will draw on lessons from detailed evaluations of recent welfare employment programs in eight states, including several different studies in California. Two findings are salient:

- Because of the statewideness provisions and the expanded mandatory caseload, JOBS will have *less* funding per mandatory participant than states spent in many of the programs for which we have evidence of effectiveness.
- These other programs, despite higher average funding, would probably not have satisfied the combined JOBS participation requirements.

With the exception of states or counties that operated the very lowest cost models, the earlier initiatives involved a significantly greater investment of total resources than states will be able to make with the first tier of JOBS funds, that is, the amount for which the federal government provides 90 cents out of every dollar. We can only be certain that most states will spend this much on JOBS services, since expenditures beyond this involve clear state resources. Moreover, many of these earlier programs also spent more per eligible person than most states will have available under their full JOBS entitlement—that is, even in the unlikely event that they draw down all of the available federal funds up to the cap, with the federal government providing at least 60 percent of the total funds. This fiscal reality flows from JOBS' requirement of statewideness and its expansion of mandatory participation to parents with younger children.

Even with more money than JOBS, our best evidence suggests that these earlier initiatives did not satisfy the JOBS requirement of averaging 20 hours per week of actual attendance. For example, the low-to-moderate cost programs that MDRC found to be cost effective usually scheduled 10 to 15 hours per week of activities—and not for every week during a month. One statewide program that operated only CWEP (workfare)—West Virginia—averaged about 16 hours per week for men and about 12 hours per week for women, principally because AFDC grants were low.

The demanding nature of the participation requirements in the JOBS regulations is suggested by evidence from California: from a recent demonstration in San Diego, called the Saturation Work Initiative Model (SWIM), which was an explicit test of the maximum feasible participation, and from the statewide Greater Avenues for Independence (GAIN) program, which is one of the nation's most ambitious welfare employment efforts to date. The SWIM demonstration had special funding at an average level in excess of what states will have under the JOBS capped entitlement, and GAIN has even greater resources.

SWIM, which operated from 1985 to 1987, was designed to test the maximum extent to which AFDC recipients with school-age children could be involved in work-related activities in any month, and to determine the effect of this maximum effort on welfare costs and other outcomes. The SWIM model required participation in a sequence of activities. The largest proportion of eligibles participated in a two-week job search workshop. The workshop consisted of three hours of classroom activity per day during the first week, followed by two to three hours of supervised telephone room activity per day during the second week. (Interviews with employers were usually held outside these hours.) About three-quarters of those participating in the job search workshops completed the full ten-day schedule. The second most prominent program component was CWEP, with scheduled work activities generally ranging between 20 and 30 hours per week, and attendance of approximately 50 to 75 percent of scheduled hours. The schedule for other SWIM components varied, from one or two days per month (for a follow-up job search activity) to eight half-days per month (for English as a Second Language—ESL—classes).

While SWIM had the highest overall participation rate—that is, the highest percentage of AFDC mothers who participated in program activities at all—of any program MDRC studied, our best evidence suggests that substantially fewer than 20 percent of mandatory AFDC recipients participated in SWIM-funded or other program-approved education and training activities for an average of 20 hours or more per week. This was true even though SWIM had substantial funds and operated in a community with extensive experience running such programs and with a wide range of educational and employment services available. However, because of another factor, SWIM would probably have met the JOBS participation standard. Since AFDC grants are relatively high in California, many people were employed and yet continued to receive (reduced) AFDC benefits. Because JOBS will count full-time employment as "participation," SWIM probably would have passed the JOBS participation test outlined in the draft regulations, at least at the 7 and 15 percent levels required in the early years.

The fact that employment can count as "participation" is one of the many reasons why states are not on a level playing field in meeting any national participation standard. This factor works against low-grant states, since it is unlikely that full-time employees in those states could continue to receive AFDC benefits.

California's GAIN program provides other evidence on this issue. The GAIN model stresses basic skills education and requires participation by AFDC mothers with school-age children and adults in AFDC-UP cases. In a sequence of activities, education comes first for all those who fail either a literacy or math test but choose not to participate in job search. MDRC's findings from this early period of operations show that basic education, job search, and self-initiated education and training were the three most utilized components. The hours of educational instruction varied by provider, but generally ranged from 12 to 20 hours per week. Job search, the second most utilized component, was usually scheduled for 4 hours per day for three weeks. Hours varied in self-initiated education and training programs.

While data on actual weekly hours of participation are not available, this suggests that GAIN participation could not have averaged 20 hours per week. However, as noted above, California might meet the JOBS target because of the high number of people combining work and welfare.

Should states be required to increase the hours of participation?

The reality of JOBS implementation is that states will have limited funds and have to balance coverage (statewideness and participation rates) and intensity (hours of participation and nature of services). Research findings do not provide clear guidance on the optimal allocation of resources, and states have differed in their priorities and willingness to provide resources to implement their objectives. However, one approach that some states might favor would be to provide relatively low-cost services—typical of those found cost effective during the mid-1980s—to a large number of people to meet broad participation targets and to concentrate the remaining scarce resources on providing more expensive and possibly more intensive educational and other services to a smaller number of the potential long-term recipients, who appear to benefit less from low-cost services.

The draft regulations would make it very difficult to implement this strategy, since their overall effect will be to increase the hours and cost of providing low-cost services. For example, a state could not satisfy the JOBS requirements on participation and hours by running a large-scale, mass program similar to the one operated in San Diego or Arkansas during the early 1980s—both of which had notable measured impacts.

But increasing the weekly hours of activity in a mass program has implications for the design and budget of this aspect of the state's activity, and of course for what resources might remain to operate more expensive services for a smaller group. The only components for which this expansion could be done at low cost are job search, CWEP, or some types of educational activities. And, low cost is not no cost. Increasing the duration of these activities will involve inevitable costs for child care, supervision, and oversight. The need to meet a minimum weekly attendance requirement may also reduce the extent to which JOBS programs can depend on services already available in the community—a reliance that the statute and regulations wisely encourage and that will be critical in containing costs. Thus, JTPA, community college, or educational services that JOBS clients may have accessed at no cost to the welfare agency may require JOBS funds, if they have to be specially redesigned to meet JOBS-specified levels of intensity. Similarly, if state JOBS programs need data on hours of actual attendance from service providers, the reporting costs may also have to be borne by JOBS.

Because of the expanded cost of a mass program, few or no funds may be left for providing more expensive services for less job ready people. This is troubling on several fronts. First, we have no evidence that there will be any payoff—in terms of welfare savings—to expanding the duration and the cost of low-cost services. Second, we also lack evidence on how to reach the most disadvantaged and dependent AFDC recipients, and should be providing states with flexibility to try innovative—and sometimes more expensive—strategies for this population.

How difficult is it to report average weekly participation?

My final observation relates to the reporting requirements spelled out in the regulations. MDRC has had extensive experience working with information systems for welfare employment programs in many states. We have seen no state that has the capacity to provide, with any accuracy, the participation data HHS proposes to collect, especially at the level of hours of actual (as opposed to scheduled) participation. Considerable design and development work at the federal and state level—with the related expense—would be needed for states to begin producing reliable, consistent measures of participation in JOBS. Even the states that have operated more elaborate programs—for example, California and New Jersey—do not now have the systems capacity to report attendance rates for JOBS participants. Being able to do so would require systems development, an expansion of staff, and the involvement and agreement of agencies outside the welfare system, which would have to report attendance to the welfare agency on some consistent and regular basis. Even in the most experienced states, this will take some time; for others, it will take even longer, and compete with other important uses of resources.

I am a believer in information systems as an aid to program management. But the complexity of system needs depends on the complexity of program design. The management of some state programs might require the level of detail implied in the JOBS regulations. However, this detail goes way beyond what most states and counties will find useful and critical for program management. This is because they will not be able to afford to operate large-scale, complex programs, and thus will not need overly complex data systems to manage them. HHS is on the right track in pointing states toward the importance of tracking whether someone actually participates, rather than being simply assigned to an activity, since most states cannot even report on this. But a national system of reporting actual attendance on a person-by-person basis, with a 45 day turnaround, is a goal so ambitious that it risks becoming a system of many numbers but little accuracy.

Recommendations

I have attempted to sketch a landscape for JOBS that reflects the diversity of the nation's AFDC program. While the statute seems to offer many different paths for statesmoving toward the goal of reduced welfare dependency, the regulations proposed by HHS tend to narrow these choices. As they should be, HHS staff have been attentive to state accountability for federal funds. With guidance from the law, they have pushed toward both broader coverage of the welfare caseload and greater intensity of services than are now the norm.

However, viewing the totality of the regulations, I am concerned that states will judge the requirements proposed as unattainable within the context of their own priorities and resources. If this assessment is accurate, the JOBS regulations risk jeopardizing the state ownership of welfare reform that has been so important in pushing the system over the past decade beyond the WIN program of the 1970s.

I believe that there is much of value in the regulations and that they often clarify the implementation task constructively. But, as a prominent change, I would recommend reconsidering the concept of defining participation in terms of hours of activity. My preference would be to see this dropped entirely. More than any other challenge offered by the regulations, running components that must meet this standard and keeping track of hours of attendance for every person on welfare represent potentially major obstacles to effective use of JOBS funds and potential disincentives to state effort. If they are retained at all, I would recommend that the hours be substantially reduced and that compliance not be tracked via universal reporting.

Abandoning or substantially relaxing this feature of the regulations should give state officials more confidence that they can shape the JOBS program to their own conditions and goals, and at the same time meet its requirements. The risk that this task will not be taken seriously is small.

Thank you.

PREPARED STATEMENT OF STANLEY HILL

Good morning Mr. Chairman and members of the subcommittee. I am Stanley Hill, International Vice-President of the American Federation of State, County and Municipal Employees and Executive Director of AFSCME District Council 37 in New York City.

Mr. Chairman, I want to thank you for the opportunity to appear here today and to commend you for your strong commitment to reforming our welfare system. Your leadership was crucial to gain passage of the Family Support Act of 1988, which, when implemented, will provide states with millions of federal dollars to run welfare-to-work programs.

As you know, we had some bitter disagreements over certain provisions in the JOBS Program. And we continue to believe that the Act gives states too much latitude to operate punitive programs. Yet, despite problems with the new law, states are now obligated, under the Act, to design and operate programs which will help welfare recipients out of poverty and into employment.

Congress's intent to require states to operate bona fide programs in return for federal dollars is clear. The Act specifically states that the purpose of the JOBS Program is to assure that needy families with children obtain the education, training and employment that will help them avoid long-term welfare dependence.

The Family Support Act represents the culmination of a long and, at times, heated Congressional debate which sought to balance the need to give States the flexibility to design programs which are best suited to their welfare population with the federal government's responsibility to set and enforce certain standards to ensure that States are operating quality programs.

This delicate balance between state flexibility and federal control is reflected throughout the statute. In order to guarantee that this balance is preserved and that States operate quality programs, it is crucial that the federal regulations which govern the operation of these programs adequately reflect congressional intent and statutory language.

We commend the Department of Health and Human Resources (HHS) for their timely release of the proposed regulations. For the most part, they did an outstanding job. Unfortunately, in several key areas, the proposed regulations do not reflect the outcome of the congressional debate.

In some instances, the proposed regulations provide the state agencies with greater flexibility than the statute allows. The is especially true in the areas of child care and in the definition of what constitutes displacement of regular employment by work program participants.

In other cases, the proposed regulations go beyond the statute, limiting state flexibility and forcing states to operate programs which will be more punitive in nature. The major problems center around the definition of program participation and the treatment of welfare recipients who volunteer for services. Correcting these regulatory discrepancies is vital to the successful implementation of the Family Support Act in the fifty States, as Congress had intended.

I want to use this testimony to highlight AFSCME's key concerns with the regulations HHS has proposed. Because much of what needs to be discussed is technical, we will submit detailed comments to your staff at a later date.

Some of the major problems in the proposed regulations directly and indirectly involve the use of the Community Work Experience (CWEP) and other work programs. AFSCME fought hard to have limits placed on the use of these programs, because it is our experience that they do little to help welfare recipients find decent employment and instead, are often used simply to force these individuals to "earn" their benefits. As a result, many state and local agencies use CWEP participants to do work normally performed by paid employees, with no intention of ever promoting these participants into paid, regular employment that will enable them to move into the workforce.

The Family Support Act allows States to use CWEP, but only if the program is designed to help individuals into the paid labor force. Congress recognized the problems with an unfettered CWEP program and agreed to a number of restrictions on its use work experience programs must include training, they must lead to employment, they cannot result in the displacement of regular paid employment, and an equal pay standard must be used to determine hours after a CWEP assignment has lasted nine months or more. And States do not have to use CWEP, but can use on-the-job training (OJT) or work supplementation programs instead.

Unfortunately, the proposed regulations are written in such a manner that States are encouraged and even forced to rely on CWEP, instead of providing more intensive training services.

Major problems arise from the definition of *JOBS Program participation.* First of all, the proposed regulations require that work supplementation and OJT placements must be *full-time* in order to count towards participation. Such an unwarranted standard for OJT and work supplementation will certainly force states to rely on CWEP and Job Search as their optional JOBS Program components, especially since women with children under six are required by statute to participate only part-time. But federal regulations, with no basis in statute, should not bias a state's decision in favor of opting for CWEP when many welfare recipients would benefit from a part-time, structured OJT or work supplementation assignment. The full-time participation requirement for these components must be dropped.

There are other serious problems with the way HHS has chosen to define participation, in particular, its decision to require a minimum hourly participation of 20 hours per week. This requirement will force states to develop programs which meet mandated participation quotas rather than programs which are designed to meet the individual education and training needs of the welfare recipient. The proposed regulations on program participation must be revised to allow states greater flexibility to offer recipients the specific types of services they need. Work experience should not become the cornerstone of the state's JOBS Program by default.

If a state does choose to implement a work experience program, then that program must meet the standards set in statute. I'm sure I need not remind you of the long, difficult and strained battle over the displacement issue. We sought to eliminate CWEP, arguing that it inevitably leads to the loss or displacement of entry-level jobs in the public sector as CWEP participants assume those responsibilities as unpaid workers. The compromise we reached was the inclusion in statute of strong and carefully worded language to protect regular paid employment and prevent displacement by work program participants.

However, *the displacement language in the proposed regulations,* which were jointly issued by HHS and the Labor Department, *is actually different and weaker than the displacement language contained in the statute.*

Attached to our submitted testimony is a table (see Exhibit 1) which compares the displacement language in the proposed regulations to the statutory language. As you can see, some significant changes were made that, if implemented, would result in displacement which is clearly prohibited in statute. Final regulations must be corrected to ensure that the displacement provisions reflect the full protections in statute. Exhibit 1 outlines specifically what must be changed.

An important component of the displacement protections contained in the Family Support Act is the requirement that states establish and maintain a grievance procedure for resolving displacement complaints. The statute also provides that the

State's decision on the grievance can be appealed to the Secretary of Labor for investigation. HHS and Labor were required, by statute, to issue joint regulations governing operation of this procedure.

However, *proposed regulations on the state grievance procedure are nonexistent.* No details on the content and nature of the procedure are specified. And not a single minimum standard is set.

Last December, we submitted to HHS for consideration, our recommendations on what standards, at a minimum, the state grievance procedure should meet. These recommendations were based on regulations which currently cover the state grievance procedure in the Job Training and Partnership Act. A copy of these regulations and our recommendations is attached to our testimony (see Exhibit 2).

Quite frankly, we do not understand why HHS and Labor chose not to implement minimum standards on the grievance procedure such as those already in JTPA regulations. The grievance procedure is a vital tool needed to prevent states from abusing work experience programs. To work properly, the state procedures must provide for a fair and expeditious decision making process. They must also set the relief that should be provided if displacement has occurred. Without these provisions, the grievance procedure and displacement language is meaningless. The final regulations must be amended to include provisions which set minimum state grievance procedure standards.

There are other areas in the proposed regulations which we believe conflict directly with the statute or with congressional intent. One of the problem areas that we must mention arises from the proposed regulations on child care.

The statute is quite clear that states must guarantee child care when needed to accept or retain employment, or in order to participate in an approved education or training program. This strong language was included because Congress recognized that access to adequate child care would break down the single, most important barrier to the labor market that welfare mothers must overcome. HHS's proposed regulations undermine this basic and vital guarantee.

Unlike the statute, the proposed regulations would require states to provide child care only to meet their participation rate requirements. Under these regulations, states could deny child care to welfare recipients who want to, but are not required to participate in a JOBS program activity. States could also deny child care if they conclude that informal care arrangements should be available at no cost.

Other problems with the proposed regulations on child care include the requirement that a family must apply for transitional child care benefits in writing. Such a requirement will delay the timely provision of these crucial benefits to mothers who find employment, ultimately jeopardizing their ability to remain on the job.

Taken together, the proposed regulations on child care contain a number of loopholes which eliminate the statutory right to child care established in the Family Support Act. *These loopholes must be closed to ensure that all welfare recipients entitled to child care services, as guaranteed in the Family Support Act, do in fact receive those services.*

In conclusion, while we recognize that HHS had to complete a monumental task in a very short time, the proposed regulations are inconsistent with the Family Support Act in a number of key areas. Most of these inconsistencies will result in states operating JOBS Programs that are more punitive and offer less services than Congress had intended.

It is important that final regulations be changed to accurately reflect the statute so that welfare recipients receive the education and training services they need to make the successful transition to employment in decent-paying jobs. We look forward to working with you, Mr. Chairman, to make sure that quality welfare reform becomes a reality.

I would be happy to answer any questions which you, or the subcommittee members may have.

Enclosure.

EXHIBIT 1

Comparison of Displacement Language in Statute to Language in Proposed Regulations

FAMILY SUPPORT ACT—SECTION 484

No work assignment under the program shall result in:

(1) the displacement of any currently employed *worker or position* (including partial displacement such as a reduction in the hours of non-overtime work, wages, or

employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

(2) the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the *effect* of filling the vacancy so created with a participant subsidized under the program; or

(3) any infringement of the promotional opportunities of any currently employed individual.

The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.

PROPOSED REGULATIONS—SECTION 251.3

The State agency shall assure that CWEP, other work experience, on-the-job training [OJT], and Work Supplementation assignments:

(a) Shall not result in the displacement of currently employed *workers*, including partial displacement, such as a reduction in hours of nonovertime work, wages, or employment benefits;

(b) Shall not impair existing contracts for services or collective bargaining agreements;

(c) Shall not result in the employment or assignment of a participant or the filling of a position when any other person not supported under this program is on layoff from the same or a substantially equivalent *job within the same organizational unit*, or when an employer has terminated any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this program.

(d) Shall not infringe in any way upon promotional opportunities of persons currently in jobs not funded under this program; and

(e) Shall not result in the filling of any established unfilled position vacancy by a participant assigned under section 482(e) [work supplementation program] and section 462(f) [CWEP] of the Social Security Act, as amended.

Explanation of Differences Between Statue and Regulation

The regulations differ from the statute in the following ways:

The statute provides that assignments shall not result in the displacement of any currently employed *worker or position*. The comparable regulation only prohibits displacement of currently employed *workers*. (See 251.3(a)).

The statute provides that assignments shall not result in the employment or assignment of a participant or filling a position when any other individual is on layoff from the same or equivalent position. The regulation limits this prohibition to cases when any other person not supported under JOBS is on layoff from the same or a substantially equivalent job *within the same organizational unit*. (See 251.3(c)).

The statute provides that assignments shall not result in employment or assignment of a participant or filling a position when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the *effect* of filling the vacancy so created with a participant subsidized under the program. The regulation limits this prohibition to cases where an employer has terminated any regular employee or otherwise reduced its workforce with the *intention* of filling the vacancy so created by hiring a participant whose wages are subsidized under this program. (See 251.3(c)).

The statute prohibits any assignment from resulting in infringement of promotion opportunities of currently employed individuals. The regulation prohibits infringing in any way on promotional opportunities of persons currently in jobs not funded under JOBS. (See 251.3(d)).

AFSCME Recommendations

Final regulations need to be corrected to ensure that the regulatory protections reflect the full statutory protections. Specifically, Section 251(a) should apply to both currently employed workers and positions. The displacement protections should apply to all workers, not just those who are not subsidized by JOBS. Section. 251(c) should be corrected to provide that assignments shall not result in employment or assignment of a participant or filling a position when any other individual is on layoff from the same or equivalent position with an employer, not just within the same organizational unit.

Section 251(c) should also be corrected to provide that assignments shall not result in employment or assignment of a participant or filling a position when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect (as opposed to intention) of filling the vacancy so created with a participant subsidized under the program. *This change is crucial to preventing displacement.* Congress clearly intended to include this languages since the Conference Report expressly states: The phrase in the House bill "with the intention of" is replaced by "with the effect of." [1]

Finally, the Conference Report indicates congressional intent that the prohibition against using participants to fill established, unfilled position vacancies was to apply to CWEP, work supplementation, and work experience.[2] Section 251.3(e), limiting applicability to CWEP and work supplementation, tracks the statutory language, but HHS should correct the regulation to be consistent with legislative intent.

EXHIBIT 2

GRIEVANCE PROCEDURE FOR DISPLACEMENT COMPLAINTS

Under the Family Support Act, states must establish and maintain (pursuant to regulations of HHS and the Department of Labor) a grievance procedure for hearing and resolving complaints by regular employees or their representatives that an assignment violates the anti-displacement provisions. The decision of the State can be appealed to the Secretary of Labor for investigation and such action as the Secretary may find necessary.[3]

PROPOSED REGULATIONS

The regulation requires states to establish and maintain a grievance procedure, but does not specify any details of the content and nature of the procedure.[4]

The regulation establishes the following procedures for appealing the decision:

The state's decision may be appealed to the Office of Administrative law Judges, Department of Labor. The review will be on the record of the state proceedings, and will be limited to questions of law. The state's findings of fact shall be conclusive if supported by substantial evidence.[5]

Copies of the appeal must also be sent to the Department of Labor's Assistant Secretary for Employment and Training, and HHS' Assistant Secretary for Family Support. The appeal must include the provisions of the FSA or regulation believed to have been violated, a copy of the original complaint filed with the state, and a copy of the state's findings and decision.[6]

On receipt of the appeal, the Office of Administrative law Judges will request the administrative record from the state; the state must certify and file it within 30 days, with copies to the Department of Labor's Assistant Secretary for Employment and Training, and HHS' Assistant Secretary for Family Support.[7]

On receipt of the copy of the appeal and record, the Assistant Secretary of Employment and Training will review the record, and may choose to file an amicus curiae brief or report. The state agency and Assistant Secretary may also file a report.[8]

The decision of the Office of Administrative Law Judges will be the final decision of the Secretary of Labor on the appeal.[9]

AFSCME'S RECOMMENDATIONS

The proposed regulation is deficient in the following ways.

First, it fails to set minimum standards for state grievance procedures. It seems wholly inappropriate for regulations to provide that review will be on the record of the state proceedings, without describing minimum due process safeguards for those proceedings.

Second, the statute provides for appeal to the Department of Labor for investigation and such other action as the Secretary of Labor finds necessary. But the regulation says there will be no investigation, and that the decision will be based on the record of the state proceedings. Congress envisioned a more active role for the Department of Labor.

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[1] H.R. Rep. No. 100-998, 100th Congress, 2nd Session 136(1988).

[2] *Id*, at 135.

[3] Section 201(b), creating Section 482(d)(1).

[4] Section 251.4(a).

[5] Section 251.4(b).

[6] Section 251.4(d).

[7] Section 251.4(e).

[8] Section 251.4(f).

[9] Section 251.4(g).

Third, the regulation sets no time frames for making decisions, and does not describe what relief can be provided on a finding that the law has been violated.

Final regulations should, at a minimum, set specific time-frames and remedies. Such regulatory standards are necessary to ensure that the displacement protections in the Family Support Act can be enforced.

Attached is a copy of the regulations governing the grievance procedure in JTPA. (Subpart D, Sections 629.51–.54). We would like to work together with HHS and Labor to design regulatory guidelines for a grievance procedure well-suited to the Family Support Act.

Subpart D—Grievances, Investigations, and Hearings

§ 629.51 Scope and purpose.

(a) *General.* This subpart establishes the procedures to receive, investigate and resolve grievances, and conduct hearings to adjudicate disputes under the Act. Complaints of discrimination pursuant to section 167(a) of the Act will be handled under 29 CFR Parts 31 and 32.

(b) *Non-JTPA remedies.* Whenever any person, organization or agency believes that a Governor, SDA grant recipient or other subrecipient has engaged in conduct that violates the Act and that such conduct also violates a Federal statute other than JTPA, or a State or local law, that person, organization or agency may, with respect to the non-JTPA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the Governor, SDA grant recipient or other subrecipient without first exhausting the remedies in this subpart. Nothing in the Act or this chapter shall:

(1) Allow any person or organization to join or sue the Secretary with respect to the Secretary's responsibilities under JTPA except after exhausting the remedies in this subpart;

(2) Allow any person or organization to file a suit which alleges a violation of JTPA or these regulations without first exhausting the administrative remedies described in this subpart; or

(3) Be construed to create a private right of action with respect to alleged violations of JTPA or the JTPA regulations.

§ 629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.

(a) *Policy.* This section deals with the handling of non-criminal complaints. Criminal complaints are to be handled as specified in § 629.55 of this part.

(b) *Procedures at Governor and SDA levels.*

(1) Pursuant to section 144(a) of the Act, each Governor shall maintain a State level grievance procedure and shall insure the establishment of procedures at the SDA grant recipient level for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act. The procedures must include the handling of complaints and grievances arising in connection with JTPA programs operated by each SDA grant recipient and subrecipient under the Act. These procedures must also provide for resolution of complaints arising from actions, such as audit disallowances or the imposition of sanctions, taken by the Governor with respect to audit findings, investigations, or monitoring reports (section 144(a)).

(2) The grievance hearing procedure shall include written notice of the date, time and place of the hearing, an opportunity to present evidence, and a written decision.

(c) *State review.*

(1) If a complainant does not receive a decision at the SDA grant recipient level within 60 days of filing the complaint or receives a decision unsatisfactory to the complainant, the complainant then has a right to request a review of the complaint by the Governor. The request for review shall be filed within 10 days of receipt of the adverse decision or 10 days from the date on which the complainant should have received a decision. The Governor shall issue a decision within 30 days. The Governor's decision is final.

(2) The Governor shall also provide for an independent State review of a complaint initially filed at the State level on which a decision was not issued within 60 days or on which the complainant has received an adverse decision. A decision shall be made within 30 days. The Governor's decision is final.

(d) *Federal review of local level complaints without decision.*

(1) Should the Governor fail to provide a decision as required in paragraph (c) of this section, the complainant may then request from the Secretary a determination whether reasonable cause exists to believe that the Act or its regulations have been violated.

(2) The Secretary shall act within 90 days of receipt of the request and where there is reasonable cause to believe the Act or regulations have been violated shall direct the Governor to issue a decision adjudicating the dispute pursuant to State and local procedures. The Secretary's action does not constitute final agency action and is not appealable under the Act (sections 166(a) and 144(c)). If the Governor does not comply with the Secretary's order within 60 days, the Secretary may impose a sanction upon the Governor for failing to issue a decision.

(3) The request shall be filed no later than 10 days from the date on which the complainant should have received a decision as required in paragraph (c) of this section. The complaint should contain the following:

(i) The full name, telephone number (if any), and address of the person making the complaint;

(ii) The full name and address of the respondent against whom the complaint is made;

(iii) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation;

(iv) The provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated;

(v) A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any Federal, State or local authority, and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case; and

(vi) A statement of the date the complaint was filed with the Governor, the date on which the Governor should have issued a decision, and an attestation that no decision was issued.

(4) A request will be considered to have been filed when the Secretary receives from the complainant a written statement sufficiently precise to evaluate the complaint and the grievance procedure used by the State and SDA grant recipient.

§ 629.53 Non-criminal grievance procedure at employer level.

(a) Governors, SDA grant recipients and other subrecipients shall assure that other employers, including private-for-profit employers of participants under the Act, also have a grievance procedure relating to the terms and conditions of employment available to their participants (section 144(b)).

(b) Employers under paragraph (a) of this section above may operate their own grievance system or may utilize the grievance system established by the Governor or SDA grant recipient under § 629.52 of this part. Employers shall inform participants of the grievance procedure they are to follow.

(c) An employer system shall provide for, upon request by the complainant, a review of an employer's decision by the SDA grant recipient and the Governor, if necessary, in accordance with § 629.52(b) of this part.

§ 629.54 Federal handling of administrative and civil complaints.

(a)(1) The Comptroller General's and Inspector General's authority to conduct audits, evaluations and investigations is as specified in § 629.42 of this part.

(2) The Secretary is authorized to monitor States (section 163(a)).

(3) The Secretary shall each fiscal year investigate several States to evaluate whether the use of funds received under the Act is in compliance with the provisions of the Act (section 165(b)(1)(A)).

(4) The Secretary may receive complaints alleging violations of the Act

or regulations through the Department's incident reporting system.

(b) As a result of the findings or content of any of the activities listed in paragraph (a) of this section, the Secretary may:

(1) Direct the Governor to handle a complaint through local grievance procedures established under § 629.52 of this part; or

(2) Investigate and determine whether the Governor or subrecipients are in compliance with the Act and regulations (section 163 (b) and (c)).

(c)(1) The Secretary shall notify the Governor of the findings of the Secretary's investigation and shall give the Governor a period of time, not to exceed 60 days, depending on the nature of the findings, to comment and to take appropriate corrective actions.

(2) The Governor shall offer an opportunity for a hearing at the State level to those subrecipients adversely affected by the results of an investigation, audit or monitoring activity as specified in § 629.52(b) of this

(A) Indicate that efforts to informally resolve matters contained in the initial determination have been unsuccessful;

(B) List those matters upon which the parties continue to disagree;

(C) List any modifications to the factual findings and conclusions set forth in the initial determination;

(D) Establish a debt if appropriate;

(E) Determine liability, method of restitution of funds and sanctions; and

(F) In the case of a final determination imposing a sanction or corrective action, offer an opportunity for a hearing in accordance with § 629.57 of this part.

(iii) The final determination constitutes the final agency action unless a hearing is requested.

(e) Nothing in this section shall preclude the Secretary from issuing an initial and final determination directly to a subrecipient in accordance with the authority of section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

part. The Governor shall inform the Secretary of actions undertaken, including any disposition of an audit conducted by the State to deal with the Secretary's findings if one was undertaken within the time frame specified by the Secretary.

(3) The Secretary shall review the complete file of the investigation and the Governor's actions. The Secretary's review shall take into account the provisions of § 629.44 of this part. If the Secretary is in agreement with the Governor's handling of the situation, the Secretary shall so notify the Governor. This notification shall constitute final agency action.

(d) *Initial and final determination.*—(1) *Initial determination.* If the Secretary is dissatisfied with the Governor's disposition of an audit as specified in § 629.42 or other resolution of costs, with the Governor's response to findings pursuant to paragraph (c) of this section, or if the Governor failed to comply with the Secretary's decision pursuant to § 629.52(d)(2) of this part, the Secretary shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants, contracts or other agreements, under the Act.

(2) *Informal resolution.* The Secretary shall not revoke a Governor's grant in whole or in part, nor institute corrective actions or sanctions, without first providing the Governor with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the Secretary's initial determination. In the case of an initial determination pursuant to an audit, the informal resolution period shall be at least 60 days from issuance of the initial determination and no more than 170 days from the receipt by the Secretary of the final approved audit report. If the matters are resolved informally, the Secretary shall issue a final determination pursuant to paragraph (d)(3) of this section which notifies the parties in writing of the nature of the resolution and may close the file.

(3) *Final determination.* (i) If the Governor and the Secretary do not resolve any matter informally, the Secretary shall provide each party with a final written determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Secretary of the final approved audit report.

(ii) The final determination shall:

Prepared Statement of Constance Horner

Mr. Chairman and Members of the Committee.

I welcome the opportunity to speak to you today about our progress in implementing the Family Support Act of 1988, an issue of the utmost importance to the President and this Department. Accompanying me is Catherine Bertini, Acting Assistant Secretary for Family Support.

Seven months ago, Congress enacted the Family Support Act of 1988—a significant first step in helping the nation's welfare families reduce their dependence on government and achieve economic independence. The Family Support Act embodies a new consensus that the well-being of children depends not only on meeting their material needs, but also on the parent's ability to become self-sufficient.

One of the key changes made by the legislation to achieve this goal was the creation of a new program of education, work and training activities for welfare recipients, the Job Opportunities and Basic Skills Training (or JOBS) program. The Act also strengthens the Child Support Enforcement Program addressing the injustice of parents failing to assume responsibility for their children's support. But, since the focus of this hearing is on the newly-created JOBS program, I will limit my testimony to this topic.

We have undertaken a myriad of new projects and activities since passage of the Family Support Act. I would like to share with you some of the highlights of our endeavors—the culmination of which was the publication of the JOBS regulations as required by the Statute. From the beginning, we have emphasized that implementation of the Family Support Act would be one of our highest priorities. It took just such a commitment in order to accomplish the great task that you set out for us.

We firmly believed that the one way to have a quality regulation was to involve, early on in the process, the key Departments, State and local agencies, public interest groups and all other organizations that have been involved, or could be involved, in helping the disadvantaged become self-sufficient. We began meetings and discussions soon after passage of the Act and continued contact throughout the development of the regulations. This is only the beginning of what I hope will be ongoing involvement with all appropriate groups.

You will find that the proposed regulations have benefitted greatly from the input of all of these individuals. We took what we learned from these discussions, combined them with what we understood to be the objectives of the JOBS program as enacted by Congress and the Administration's position on such key issues as child care and family responsibility, and established key principles which guided the development of the entire regulation. These principles were so influential in the writing of the regulations that I would like to share them with you today.

First, we must *target resources on those hardest to serve, particularly women with young children.* Women and their children represent the overwhelming proportion of AFDC recipients; and within this group the ones most likely to remain on welfare for long periods of time are never-married mothers who did not complete high school and who had their first child at a young age. Any program designed to reduce welfare dependency must emphasize services to this group of young women and their children.

Consistent with this principle, our proposed regulations do not envision waivers for failure of a State to spend the specified amounts for these target groups. Rather, they only would allow the States to request approval of alternative target groups, which also include long-term or potential long-term recipients.

Second, we must *emphasize education, particularly literacy and remedial education.* Basic education, which includes literacy, high school equivalency and remedial education, is one of the most important tools an individual needs to achieve self-sufficiency. The labor market demands higher levels of skills than ever before. Recent studies indicate that over half of the women on welfare have less than a high school diploma, including many who have less than an eighth grade education. Congress made basic education a mandatory requirement of the JOBS program. President and Mrs. Bush have been actively involved in stressing the need to improve basic education and literacy training. These must be key components of a JOBS program.

Our proposed rules closely mirror the statutory emphasis on basic education. States are required to ensure that the young parent under age 20 who has not finished high school, or the equivalent, stays in or returns to school, even if she has a child under age 3. Custodial parents under the age of 24 and youth 16 to 18 years of age who have not completed high school are also mandatory participants for basic education services.

Third, we must *provide training for jobs that exist—training helpful to employment.* Where education is not an appropriate vehicle for becoming self-sufficient, or where a woman is educated but needs additional training, then we are strongly urging States to focus resources on training and work activities that will prepare participants for employment that exists in the community. Training without a specific job in mind or for extended periods of time may not be the best and quickest path to independence from welfare.

Therefore, the JOBS regulations emphasize the value of training programs leading to specific occupational goals, rather than programs that may have far less specific employment goals. Not only should a goal be set, but we propose that States develop qualitative measures of good. and satisfactory progress.

Fourth, we must *maximize use of existing resources—with extensive coordination at all levels.* In order to have effective JOBS programs in States with sound education, training and work components that reach out to many individuals, we realized very early in the process that resources must be maximized through coordination of existing programs at all levels of government and in concert with. community-based volunteer and business organizations.

The Statute and the proposed rules include provisions to ensure the coordination of the JOBS program. We recognized, as you did in the legislation, that in many States, other agencies—such as Job Training Partnership Act (JTPA) agencies, the State education agency, the State employment security agency and community-based organizations—have been effectively performing a range of educational, training and employment related functions for welfare recipients. The JOBS program is not intended to supplant these types of programs, but to coordinate and refer individuals to services if they are available already.

We have strongly urged State welfare agencies to meet regularly with their counterparts in education and training to ensure that these providers are involved in the planning and delivery of the JOBS program at all levels. Coordination serves two purposes: it maximizes the type of services that are potentially available and the number of individuals that can be served throughout the state.

Fifth, we must *make the program available to as many recipients as possible.* There are two key provisions in our proposed rules which clearly reflect this principle. They are the heart of the JOBS program as we envision it running in the States—statewide programs and meaningful participation requirements.

First, I would like to address statewide programs. In keeping with legislative intent, our proposed rules encourage states to make the JOBS program as widely available as possible. Thus, we have required the JOBS program to be available in each subdivision of the State where it is feasible to do so, taking into account the number of prospective participants, the local economy, and other relevant factors. State agencies will not be required to implement all mandatory and optional components in all political subdivisions in which they operate a JOBS program. Further, differences in the level of component availability will be permissible.

Because the statewideness requirement is not effective until October 1, 1992, phased implementation of the program will be permitted. The following criteria are proposed:

—a "complete" JOBS program should be available in all metropolitan statistical areas in the State, as well as in a number of political subdivisions sufficient to serve 75 percent of adult recipients in the State. A complete program includes, but is not limited to, all mandatory and any two optional components.

—a "minimal" JOBS program should be available in enough political subdivisions to serve 95 percent of adult recipients. A minimal program includes high school or equivalent education, one optional component and information and referral to non-JOBS employment services.

Both the Administration and Congress want to ensure that these rules are effective in helping individuals achieve self-sufficiency. Therefore, not only must the JOBS program be present in some form throughout the State; there must also be meaningful participation requirements. A number of States requested that individual States be allowed to define participation in components. We concluded that the measurement of participation rates should be consistent across States and have followed comments in the conference report that participation is intended to be significant.

We proposed that the participation rate be measured as a ratio of the number of individuals participating in one of the mandatory or optional JOBS components over the number of non-exempt recipients in a State. Thus, only activity in one of the mandatory or optional JOBS components will count as participation. Activities, such as orientation and assessment, are not considered in measuring the participation rate.

The proposed rule also defines the minimum activity levels in each component that a State may count towards meeting the participation rate. For example, in an educational component, a participant would be required to be "making satisfactory progress"—a measure of both qualitative and quantitative progress as defined by the institution. For job readiness activities, and job skills training, an average hourly requirement, measured monthly, and State-defined qualitative measures are proposed.

Sixth, we must *provide flexibility in program design for States.* We believe that State welfare agencies should have maximum flexibility to administer their programs within the requirements of the Act. While we have required statewide programs and meaningful participation requirements, we have provided States broad flexibility in determining the types of services they offer anywhere in the State.

Further, while the State IV-A agency may not delegate functions involving discretion in the administration of the program, we have provided broad contracting authority for a wide range of activities. Thus, rather than requiring State welfare agencies to train or expand in-house staff to perform similar JOBS functions, we have proposed to provide State welfare agencies the flexibility to determine how they can most effectively use all potential State resources.

However, before a State welfare agency contracts to pay for any additional service or activity out of JOBS funds, it will have to maintain the prior level of such services and may not be reimbursed for services a State is required to provide to all citizens.

Seventh, we must *encourage targeting of program resources on services, not administration.* Our proposed rules build in incentives for States to focus their efforts on program activities rather than administrative activities. Specifically, in defining participation and in establishing eligibility for enhanced Federal matching, we emphasized program services and activities over administrative functions. Only program component activities would count as participation; administrative functions would not be considered participation and, therefore, would only be eligible for 50 percent matching.

Eighth, we must *provide women with choices of child care providers within State fiscal constraints.* In order for individuals to be able to participate in these education, work and training programs, Congress recognized that child care and other support services would be needed. Under the Act, States must provide child care and other support services for recipients who participate in JOBS activities. States may use vouchers, direct payments, or other types of financing, and care may be provided by relatives, independent contractors, or day care centers.

Our regulations embody President Bush's philosophy of family choice within State fiscal constraints when deciding among child care options. Federal matching is available for actual costs of child care which do not exceed the applicable local market rate or a statewide limit. We are proposing that local market rates be determined by type of care and be established at the 75th percentile of the cost of such care.

Finally, we must *keep the focus on women and children.* I must reiterate what I said at the beginning of my testimony. In the AFDC program, women and their children always must be our primary concern. We must not lose sight of the fact that these are real people, not just papers being shuffled through the bureaucracy; the JOBS program must be sensitive to their needs. Every effort must be made to meet the ultimate goal of moving each family to self-sufficiency.

Rather than taking more of your time now to describe further the content of our proposed rules, I would like to include for the record a detailed summary of the main provisions of these regulations. However, I would like to point out at this time that our initial feedback on the regulations has been very positive. States and other interested parties have until June 19th to comment on the proposed regulations. We have already started to evaluate early comments and plan to meet the required publication date of October 13th for the final rules.

Many States are excited about the JOBS program and want to begin implementation as soon as possible. As many as 18 States may be implementing the JOBS program as of July 1, 1989. As many as 25 more States may begin JOBS effective October 1, 1989.

These JOBS regulations are a first, very positive step in providing the opportunity and resources for needy families with children to obtain the education, training, and employment that will help them learn and work their way from welfare to independence. I am extremely proud of these regulations and the effort and coordination that was essential to getting the regulations published on time. We look forward to the constructive comments that I know we will receive from the Congress and the States and will continue to work with you to complete our job.

In addition, we are taking our responsibility for evaluating JOBS very seriously. It is essential that accurate information about program effectiveness be developed as soon as possible. Over the months since enactment we have been planning an evaluation which will most efficiently address the complex, important issues associated with the design and conduct of JOBS programs. We have been working in consultation with other agencies as well as with experts from the states and private sector and intend to continue this coordination over the next several years.

The second stage of our welfare reform effort is just beginning. Following the course of a kinder, gentler nation that has been set by President Bush, we must make every effort and take every opportunity to move toward a welfare system that strengthens families, not weakens them; that keeps families together, not splits them apart; that moves recipients from dependence to independence; off welfare and into the world or work; and one that involves the private sector.

I would be pleased to respond to any questions you may have.

Encolsures.

SUMMARY OF THE JOBS AND SUPPORTIVE SERVICES—PROPOSED RULES

TITLES II AND III OF THE FAMILY SUPPORT ACT OF 1988

PARTICIPATION STANDARDS

Measure of Participation—For purposes of measuring State participation rates, as required by the Statute (7% by FY 1990 up to 20% by FY 1995)

The participation rate will be measured as a ratio of the number of individuals participating in one of the mandatory or optional JOBS components over the number of non-exempt recipients in a State.

Definition of Participation

Only activity in one of the mandatory or optional JOBS components will count as participation (i.e., educational activities, such as high school, job readiness, job skills training, job search, OJT, work supplementation, CWEP, or other activity as defined by the State). Other activities, such as orientation and assessment, are not considered participation.

The rule proposes a definition of "participation" that relates only to the question of determining what minimum activity levels in each component a State may count towards meeting the participation rate.

In an educational component, a participant would be required to be "making satisfactory progress"—a measure of qualitative and quantitative progress as defined by the institution.

For Work Program components, job readiness activities, and job skills training, an average hourly requirement, measured monthly, is proposed. The measure is full time work for OJT and work supplementation, and 20 hours/week for other components.

PROGRAM ADMINISTRATION

State IV-A Agency Administration

The State IV-A agency must maintain overall responsibility for the design and operation of the program and may not delegate to other than its own officials functions involving discretion in the administration or supervision of the program.

For example, the State IV-A agency may delegate a wide range of activities—such as orientation, literacy testing, and JOBS activities and services. However, it may not delegate functions such as exemption and priority determinations or dispute resolution and hearings since these involve discretionary judgments.

Statewideness

The JOBS program must be available in each subdivision of the State where it is feasible to do so, taking into account the number of prospective participants, the local economy, and other relevant factors.

State IV-A agencies will not be required to implement all mandatory and optional components in all political subdivisions in which they operate a JOBS program. Further, differences in the level of component availability will be permissible.

In reviewing for statewideness, we propose to apply the following criteria:

First, a "minimal" JOBS program should be available in a number of political subdivisions sufficient to serve 95 percent of adult recipients. A minimal program includes high school or equivalent education, one optional component and information and referral to non-JOBS employment services.

> Second, a "complete" JOBS program should be available in all Metropolitan Statistical Areas (MSAs) in the State, as well as in a number of political subdivisions sufficient to serve 75 percent of adult recipients in the State. A complete program includes, but is not limited to, all mandatory and any two optional components.

If a State JOBS program will not be available in the number of political subdivisions sufficient to meet these criteria, a justification must be provided. Included must be two factors specified in the Act: the prospective participants and the local economy. We propose to add one additional item: whether a State IV-A agency will, even with the proposed areas excluded, fully expend all JOBS funds available to it for the period covered by the plan.

Because the statewideness requirement is not effective until October 1, 1992, phased implementation of the program will be permitted.

Coordination and Consultation

In addition to the Statutory provisions designed to assure coordination of the JOBS program and child care with other education, training, and employment programs, such as JTPA, available in a State, the rule requires coordination with Indian Tribes and Alaska Native organizations interested in conducting separate JOBS programs.

Contracting Authority

The Act grants State IV-A agencies broad contracting authority. However, State IV-A agencies must fully utilize all resources otherwise available to serve JOBS participants on a non-reimbursable basis.

In order to assure that contracting of services is neither encouraged nor discouraged, we propose that for the purposes of FFP, State IV-A agencies must segregate costs according to applicable matching rates, as defined at § 250.73(b)(1), in any contract or arrangement under the JOBS program. This means that contracted services will qualify for Federal matching funds at the same rate as those services which the State IV-A agency provides directly.

STATE JOBS PLANS

Separate JOBS Plan

It is appropriate to include in a separate JOBS plan the new statutory requirements in section 402(a)(19) of the Act as well as all requirements of title IV-F. We also require that provisions related to child care and other supportive services be included in a separate Supportive Services plan to be submitted with the JOBS plan.

We propose that these plans must be approved by the Secretary prior to a State's implementation, and that the plans must be submitted 45 days prior to planned implementation.

We also propose to issue a preprinted plan soon after publication of the final rules. States with interim plans (those submitted before the publication of final rules) will be required to submit new JOBS and Supportive Service plans 60 days after the issuance of a preprint form. An approved interim plan shall remain in force until action is taken by the Secretary to approve or disapprove the preprint.

The Act requires that States submit a *biennial update* of the JOBS plan. We propose to consider the biennial update a new plan, which must be submitted for approval 90 days prior to the date it is to become effective, and that all State plans be resubmitted by July 1, 1992 to be effective October 1, 1992.

The Act requires that the State agency submit its JOBS plan to the State Job Training Coordinating Council (SJTCC) 60 days before submission to the Secretary. We propose to require submission of the proposed plan to the State education agency, and that all public and State agency comments on the plan be resolved at the State level..

State Plan Content

We have listed all of the information which we expect to include in the JOBS plan preprint. The preprint will guide States in submitting the JOBS plan, and will expedite review. It will also provide a basis for comparison of State programs.

PARTICIPATION REQUIREMENTS

Individual Particiption and Exemptions

All applicants for and recipients of AFDC are required to participate in JOBS program activities unless they are exempt. The exemptions are similar to those under the WIN program, and follow the Statute. We propose to limit the exemption for caring for a child to one parent or caretaker relative per case.

In AFDC-UP cases, the State may require the second parent to participate unless he or she meets another exemption criterion. We propose to allow a State to establish policy on whether the principal earner is eligible for the exemption for caring for a child.

We also require that State IV-A agencies regularly review the appropriateness of exemptions, especially those of a temporary nature. Such review must occur, at a minimum, at each redetermination for AFDC.

Volunteers

The Act requires that States allow applicants for and recipients of AFDC who are exempt to participate in JOBS on a voluntary basis if the program is available in their area and State resources otherwise permit. It also contains a specific requirement that in determining priority of participation within the target groups, the State IV-A agency give first consideration to volunteers.

We interpret the use of the term "volunteer" to include both mandatory and exempt applicants and recipients so that a State may elect to prioritize among volunteers and,, if appropriate, give priority to non-exempt volunteers. For exempt individuals who stop participating in the program without good cause, their priority status to participate in the program is lost as long as other individuals axe actively seeking to participate. An individual who is not exempt but enters the program voluntarily is subject to sanction if she stops participating without good cause.

Participation in Education

The State must require the custodial parent under 20 who has not finished high school (or its equivalent) to participate in an appropriate educational activity. The State may require a custodial parent who is age 18 or 19, and required to participate in JOBS, to participate in training or work activities (subject to the 20-hour limit) in lieu of educational activities if one of certain conditions is met. The State may establish criteria for excusing custodial parents under age 18 from the high school attendance requirements. We propose that in such cases State IV-A agencies must provide for assignment to available educational alternatives and that all determinations be made based on an assessment of the individual's circumstances.

Participation for Unemployed Parents

At least one parent in a family must participate for at least 16 hours a week in a work supplementation program, a community work experience program or other work experience program, on-the-job training, or a State-designed work program. If a parent is under age 25 and has not completed high school, the State may require the parent to participate in educational activities directed at attaining a high school diploma (or equivalent) or in another basic education program.

We have defined a minimum level of participation in educational activities for the purpose of determining the general participation rate, and we propose to adopt the same standard for this part of the UP participation requirements. That standard is "making satisfactory progress."

The Act provides that by FY 1994 each State must have 40 percent of its UP caseload participating at least 16 hours per week in a work component. We suggest that States incorporate programs designed to meet these requirements at the time that they implement JOBS (or as soon as they have a UP program). This will prepare States to increase the coverage of their programs on an incremental basis so that they can be at 40 percent by FY 1994.

Sanctions

The Act provides that, for the first failure to participate or accept employment, the sanction last until the failure to comply ceases. For the second failure, the sanction lasts until the failure to comply ceases or 3 months whichever is longer. For any subsequent failure, the sanction lasts until the failure to comply ceases or 6 months whichever is longer.

We propose a definition of ceasing a first failure to comply that allows the State IV-A agency to determine that the individual has actually demonstrated a willingness to participate in the program and, therefore, has ceased her non-compliance.

Good Cause

A sanction may only be imposed if the individual does not have good cause for failing to participate in JOBS or refusing to accept employment. Good cause exists if:

(1) the individual is personally providing care for a child under age 6 and the employment would require such individual to work more than 20 hours per week, or

(2) if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for the individual to accept employment or enter or continue in the program and such care is not available, or

(3) if accepting a job would result in a net loss of cash income, or

(4) other reasons as defined by the State.

In calculating net loss of cash income, we propose that State IV-A agencies use actual, reasonable work-related expenses.

Conciliation and Fair Hearings

The Act requires that States establish a conciliation procedure for the resolution of disputes involving an individual's participation in the JOBS program. We do not propose to describe specific procedures that all States must adopt.

The State must provide a hearing when the conciliation process does not resolve a dispute. We propose that the State IV-A agency may not contract out to any other agency the responsibility for providing a hearing.

OPERATION OF JOBS PROGRAMS/PROGRAM COMPONENTS

Providing Program Information

The State must provide all AFDC applicants and recipients with information on the JOBS program, including: education, training, and employment opportunities; available supportive services including child care and transitional child care; the State IV-A agency's obligations; and the participant's responsibilities. We also require that the State provide information on securing child support and establishing paternity as well as related requirements.

We permit a State to develop the processes, methods of delivery, and timeframes for providing this information as they phase-in the JOBS program. We propose that a State provide this program information to applicants at the time of application and to recipients at the time of the first redetermination after implementation of JOBS.

The Act requires that after the State has provided a recipient with the information described above, it must, within one month, notify the recipient of the opportunity to indicate her desire to participate in JOBS. We propose to permit the State to make such notification within one month of eligibility determination.

Initial Assessment and Employability Plan

The Act requires the State to conduct an initial assessment of each participant's employability. We give States flexibility by providing that the initial assessment can be conducted through various methods including interviews, testing, counseling, and self-assessment instruments.

The Act also requires the State to develop an employability plan in consultation with the JOBS participant based on the initial assessment. The proposed rule follows the requirements of the Act as to the basic content of the plan, but leaves design and administration of the plan to the State, and specifies that final approval of the employability plan rests with the State, rather than the participant.

Agency-Participant Agreement

The State may require the JOBS participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State. The proposed regulations permit a State IV—A agency to consider the agreement a contract, subject to applicable State laws and regulations and that the option need not be statewide.

Case Management

The Act permits States to assign a case manager to a participant and the participant's family. Under the proposed regulations, a State that chooses to establish a case management system is given flexibility to design its case management services and procedures. Case management does not have to be offered in all political subdivisions that have a JOBS program.

Mandatory Components

The State must offer all of the following components:

Educational Activities—(1) high school education or its equivalent; (2) basic and remedial education to achieve a basic literacy level; and (3) education in English as a second language. Where enrollment in regular high school programs is deemed inappropriate, the State is expected to identify or develop alternative education activities to meet the needs of JOBS participants.

Job Readiness Activities—pre-employment preparation related to removing barriers to employability, excluding activities that would readily fit within the scope of other defined components, such as vocational skills training.

Job Skills Training—pre-employment training in technical job skills. In order to assure that skills training offered through JOBS results in an increase in participants' skills and competencies, we propose to require that qualitative measures for progress be developed for all skills training that is included as a JOBS component.

Job Development and Job Placement—agency activity on behalf of participants to create or discover openings, and to market participants for them. Because this activity is performed by the agency, we propose to exclude this component from the definition of "participation."

Optional Components

The State must also offer at least two of the following four activities in its JOBS program:

(1) group and individual job search;
(2) on-the-job training;
(3) work supplementation; and
(4) community work experience, or other approved work experience program.

The optional components are discussed in more detail, below.

Postsecondary Education

Postsecondary education is an entirely optional matter for the State to address in its JOBS plan, except that we have limited such education to that which is directly related to the fulfillment of an individual's employment goal.

Other Education, Training, and Employment

The Act provides that the Secretary may, if requested by a State, approve additional components not specified in the Act. We have expressly excluded public service employment from the acceptable possibilities.

Self-Initiated Education or Training

The Act gives States the option to allow individuals to continue attendance at an institution of higher education or in a school or course of vocational or technical training if certain conditions are met. The proposed rule requires that a participant: (1) attend the educational activity at least half-time; (2) make "satisfactory progress in such institution, school, or course;" and (3) be enrolled in a course of study that is consistent with her employment goals.

We propose that the State may place restrictions upon the self-initiated postsecondary education. For example, the State IV–A agency might restrict such postsecondary education to a maximum of two years.

Job Search Program

This section of the rule closely follows the Act. In order to qualify as an optional component in which participation counts for the purposes of calculating participation rates, a job search program must be well-structured and include specific activities to be undertaken by the participant or the agency on behalf of the participant.

On-The-Job Training

Our definition of OJT is based on the definition contained in WIN regulations and information provided by the Department of Labor. The participant is hired first by the employer. While engaged in productive work, she is provided training which gives her the knowledge or skills essential to the full and adequate performance of that job. We propose to limit the rate of reimbursement to employers to no more than an average of 50 percent of the wages paid by the employer to the participant during the period of the OJT. We also to require that qualitative measures for progress be developed for all OJT assignments that are included under JOBS.

Work Supplementation Program

This component allows the State to pay, or "divert," all or part of the AFDC grant to an employer to cover part of the costs of the wages paid to an AFDC recipient who is participating in the program.

We propose to permit States to exempt individuals who are participating in work supplementation from retrospective budgeting requirements and to determine their monthly payments prospectively.

Community Work Experience Program

JOBS generally retains the provisions in the current law, with modifications. The Act allows for training along with actual experience as ways to improve the employability of participants. We interpret this to mean that a State can include an element of training in a work experience position.

FUNDING

JOBS Allocation

Federal funding for JOBS is provided as a capped entitlement. Unlike funds authorized under title IV–A, funds not obligated by the end of the fiscal year cannot be carried over. States will be reguired to liquidate all obligations incurred during a fiscal year within one year.

Allotment of JOBS Limit of Entitlement

Funding proportional to the quarters the program is in operation in a State in a given fiscal year will be provided. JOBS funding for Puerto Rico, Guam, the Virgin Islands, and American Samoa is described in this section of the proposed rule.

Maintenance of Effort

JOBS funds are not to be used to replace non-Federal funds to pay for education, training, and employment activities which were already in existence prior to a State's implementation of the JOBS program. State and local funding for the purposes of the JOBS program must not be less than expenditures incurred in fiscal year 1986 for education, training, and employment activities dedicated to assist AFDC individuals in becoming self-sufficient.

We are proposing that FFP will not be provided for activities and services that are otherwise available to an AFDC recipient on a non-reimbursable basis.

Matching Rates

The FFP rate for that part of the total JOBS funds comprised of the States' WIN or WIN Demonstration allotment for FY 1987 is *90* percent. This rate may be applied toward any allowable cost of the JOBS program.

Federal matching under the JOBS program is also available at the *FMAP* for certain costs of the program that exceed a State's WIN or WIN Demonstration allotment. In this category, for the purposes of the JOBS program, the minimum matching rate is *60* percent.

Expenditures which may be claimed in this category are the personnel costs of full-time staff involved in any capacity of the JOBS program, whether programmatically or administratively. This match rate also applies to costs associated with a JOBS participant's involvement in a component of the program, and includes program costs, such as OJT payments to an employer or tuition and fees for GED classes. It also includes the personnel costs of staff and first-line supervisors directly providing component services to participants on less than a full-time basis.

The FFP rate of *50* percent for the JOBS program includes the costs of general administrative activities. This includes personnel costs of staff administering the program on less than a full-time basis and all other non-staff costs not matchable at the program matching rate. Administrative costs include, for example, personnel costs for case managers and program planners not employed full-time for the JOBS program.

Reduced Matching—Participation Rates and Target Population

The Act provides that if, in any fiscal year, a State fails to expend 55 percent of its JOBS allotment on members of the State's target population, the Federal matching rate for all JOBS expenditures for that same year will be reduced to 50 percent. This same penalty is applied if a State fails to meet specified participation rates for fiscal years 1990 through 1995.

JOBS participation rates for the AFDC–UP program are also established by the Act. The penalty for not meeting the participation rates is not defined in the Act. We propose reduction to 50 percent FFP.

UNIFORM DATA COLLECTION REQUIREMENTS

Data Collection Requirements

In order to meet statutory reporting requirements, we are proposing that States be required to submit electronically on an ongoing basis a sample of unaggregated case records of JOBS participants in each month with a minimal set of data elements.

In addition to this sample, States would submit aggregate reports on a quarterly basis of the number of non-exempt AFDC recipients. We also propose that States develop a table of average total unit cost per component and service made available by the State.

State Data Systems Options

We believe it is unlikely that a State can either operate its program effectively or meet the minimum requirements in the Statute without an automated client-based information system. To these ends, we propose to permit various rates of FFP for different parts of the system needed to operate the JOBS program effectively.

Required Case Record Data

We propose a minimum content for the case record that will permit our derivation of all reportable data required by the several parts of the Statute.

OPERATION OF JOBS PROGRAMS BY INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS

Application Guidelines

The Act permits Indian Tribes and Alaska Native organizations to apply for direct JOBS funding by April 13, 1989. The Department issued initial application guidelines (FSA-AT-89-11) on February 24, 1989. We advised Tribal applicants that since we were still developing Federal policy at that time, we would not disapprove their initial April 13 submittal. The proposed regulations contain additional application documentation requirements to provide the Secretary with a sufficient level of information upon which to base approval of Tribal applications.

Eligibility and Funding

The Act provides that federally recognized Indian Tribes with a reservation and Alaska Native organizations eligible under P.L. 93-638 are eligible for JOBS. The proposed rules permit consortia representing eligible Tribes to apply. Only one application may be approved from each of the 12 geographical regions under the Alaska Claims Settlement Act.

According to the Act the funding formula for Alaska Native organizations is based on the number of adult Alaska Natives on AFDC who reside within the boundaries of the region which the organization represents compared to the total number of adult AFDC recipients in the State of Alaska.

The proposed rules define Tribes. The Tribe will receive JOBS funds based on the number of adult Tribal members on AFDC who reside in the designated service area as compared to the total number of adult AFDC recipients in the State. Tribes or organizations are not required to match Federal JOBS funds.

The regulations propose that State IV-A agencies and the Tribes or organizations have a mutual responsibility to share all available information so a funding level can be calculated. Because exact data on adult Tribal AFDC recipients may be difficult to develop, we strongly encourage States and Tribal agencies to enter into agreements.

Program Administration and Supportive Services

Under the proposed rules, the Tribe or organization must designate an administrative entity responsible for JOBS. This responsibility includes all the requirements under the Statute, unless waived. Certain functions like orientation, JOBS activities and hearings involving JOBS participation issues will be retained by the Tribal designated administrative entity. However, certain other functions such as imposition of sanctions, are retained by the State IV-A agency based on its responsibility to administer the IV-A program. Because of these interrelated functions, we encourage State IV-A agencies and Tribal grantees to enter into agreements to develop necessary referral and operation procedures.

The proposed rules permit the Tribal grantee to begin its program prior to the State's implementation of JOBS. During this interim period, the Tribal grantee may either guarantee necessary child care for its participants or operate its program on an entirely voluntary basis.

The proposed rules require Tribal programs to include the 4 mandatory components and at least one optional component job search, work supplementation, CWEP, or a work experience program approved by the Secretary, OJT, or alternative education, training and employment activities as approved by the Secretary.

Tribal grantees must provide necessary work-related supportive services including transportation. However, the State IV-A agency is responsible for providing necessary child care for Tribal JOBS participants. If the Tribal grantee chooses not to use State child care funds or services, it must provide these funds or services before requiring participation. Thus, after the State has implemented JOBS, the Tribal grantee may not operate an entirely voluntary program.

Waiver Authority

The Act permits the Secretary to waive any JOBS requirements he determines to be inappropriate for Tribal programs. The proposed regulations specify that certain provisions relating to State agency administration, State JOBS funding allotment or State matching requirements—are inappropriate. Tribal entities may request waiver of other requirements which will be considered on a case-by-case basis.

CHILD CARE AND OTHER WORK-RELATED SUPPORTIVE SERVICES DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING

State Plan Requirements

We propose that services provided under sections 301 and 302 of the Statute be covered by a separate Supportive Services plan submitted at the same time as the JOBS plan. We propose that the State Supportive Services plan contain information about child care services, work-related supportive services, and work-related expenses necessary for JOBS.

Eligibility

States would be required to guarantee child care for AFDC recipients to: (1) accept or maintain employment, or (2) participate in an education and training activity if the agency approves the activity and periodically determines that the individual is satisfactorily participating in the activity. (Such education and training is not limited to activities funded under JOBS.)

We propose that the State should assure in its Supportive Services plan that child care provided or claimed for reimbursement is reasonably related to the hours of participation or employment. The State must also assure that sufficient child care will be available to meet the participation rates.

We propose to limit the guarantee of child care to those families with dependent children under 13 or who are physically or mentally incapable of caring for themselves. States would be required to guarantee care for any child who would be required to be in the assistance unit if it were not for the receipt of 551 under title XVI or foster care payments under title IV-E.

States will be permitted to define work-related supportive services and work-related expenses in the State Supportive Services plan. They may include one-time, special work-related expenses which would enable individuals to accept or maintain employment.

Regarding Tribal JOBS programs, we are proposing that the State must provide child care to AFDC applicants and recipients who are served by a JOBS program administered by Tribal or Alaska Native organizations.

Methods of Providing Child Care and Other Supportive Services

We propose that the State may:

(1) provide the care itself;

(2) arrange care through public or private providers by use of contracts or vouchers;

(3) provide cash or vouchers in advance to the caretaker relative so that the child care costs may be pre-paid;

(4) reimburse the caretaker relative for child care expenses incurred;

(5) arrange with other agencies and community volunteer groups for non-reimbursed care;

(6) use the earned income disregard; or

(7) adopt such other measures as the State IV-A agency deems appropriate.

We propose that States could make supplemental payments for child care costs which exceed the disregard amounts, but are within the established limits.

The proposed rules reflect our desire to allow the caretaker relative to choose the type of child care (center, group family day care, family day care or in-home care), if more than one type is available. The State would be required to pay for the child care services arranged by the individual, even if that would require that it set up an alternative mechanism for payment of such services. The State must also take into account the needs of the child.

Allowable Costs and Matching Rates

FFP is available for payments for the actual cost of child care up to the statewide limit chosen by the State IV-A agency. This statewide limit may be the disregard level ($160) or some higher figure. In no case is FFP available for payments which exceed the applicable local market rate.

Each State must establish local market rates. We are proposing four guidelines which the State IV-A agency would have to follow in establishing these rates:

> First, the State would have to base the rates on a representative sample of providers.
>
> Second, we believe the data generally should be collected for areas no greater than political subdivisions.
>
> Third, we are proposing that the local market rates be established at the 75th percentile of the cost of such care.
>
> Finally, we are proposing that local market rates should be determined by type of care, such as center care, group family day care, family day care, and in-home care. Rates should be differentiated by care for infants, toddlers, preschool and school children and whether there are different rates for full-time and part-time care. Where appropriate, rates should reflect reductions in the cost of care for additional children from the same family.

The costs of providing transportation, work-related expenses, and other work-related supportive services are matched at *50* percent and are under the JOBS cap.

FFP is available for child care benefits at the Federal medical assistance percentage and is not subject to the funding cap for JOBS for any State other than Puerto Rico, the Virgin Islands, Guam and American Samoa. Although the Statute does not directly address child care administrative costs, we propose that such costs be matched at the administrative matching rate for AFDC.

Administrative costs for such activities as recruitment and training of providers, licensing, or resource development would not be considered allowable IV-A costs.

Although child care payments are funded under section 403(a) of the Act, they are not IV-A assistance payments as such. For ease of administration, we are proposing that they be subject to many of the same administrative and financial rules as AFDC.

Child Care Standards

Child care must meet current applicable standards of State and local law; however, States are not required to develop new standards. Consistent with congressional intent, we are not proposing to create Federal requirements in this area.

TRANSITIONAL MILD CARE (EFFECTIVE 4/1/90)

State Plan Requirements

We suggest that States use the same methods, except for the income disregard, that it has in place for providing child care during employment, education and training, including JOBS.

By April 1, 1990, where a State has not previously submitted a Supportive Services plan because it has not implemented its JOBS program, the plan for transitional child care would contain the provisions required under transitional care, as well as relevant provisions from the section on child care during eligibility, described above.

Eligibility

Certain AFDC recipients will become eligible for 12 consecutive months of child care. To be eligible for this benefit, the former recipient must have received AFDC in 3 of the prior 6 months. The first month of the period of eligibility is the first month the individual becomes ineligible for AFDC because of one of the following three events:

(1) any increase in earned income;

(2) the loss of the $30 + 1/3 or the $30 disregard because of the expiration of the time limit on its use; or

(3) for AFDC-UP cases only, an increase in the number of hours worked to over 100 hours per month.

We propose to require that the former recipient request this benefit in writing, that the payment of the benefit cannot be for any month prior to the request, and that recipients be notified of their potential eligibility for transitional child care when they become ineligible for AFDC.

Fee Requirement

The State must establish a sliding fee scale for the purpose of calculating a family's contribution for transitional child care. We did not impose specific limits on the fee scales determined by the States, but suggested that we will in the final rule.

We propose to allow the States to set different periods of payment collection for differing levels of payment, and that the State must take appropriate action if a family does not pay its fee. Transitional child care benefits would not be discontinued without due process, and benefits would be continued pending a hearing, if requested.

TECHNICAL AND CONFORMING AMENDMENTS

Technical Amendments

This section includes changes to the existing regulations required by section 202 of the Statute. Included are closeout of the WIN program, changes to the "quarter of work" requirement for AFDC-UP cases, and a number of other changes.

Other Provisions

We are proposing to remove the provision which states that an otherwise eligible child under age 18 may not be denied aid if he fails to attend school or make satisfactory grades. We also propose to prohibit the use of special needs for child care, educational expenses, work-related expenses, and other work-related supportive services that can be paid for under JOBS.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR ROTH

Question. Many States feel that you have overregulated in areas like data collection. Why are the regulations so prescriptive?

Answer. The Family Support Act imposes substantial reporting requirements related to the JOBS program and its attendant child care provisions. Section 487(b) of the Social Security Act contains a minimal set of uniform JOBS reporting requirements that may be augmented as the Secretary determines. Section 403 of the Act was amended to require that, among other data elements, a State provide information on the use of child care by AFDC recipients. All the data collection requirements we proposed derive directly from the Family Support Act. Most are specifically mandated by the statute; others—such as the data required to calculate participation rates and to measure targeting of resources—are implicitly required.

We believe that the approach put forward in the proposed rules represents a cost effective means for meeting statutory reporting requirements. It also would provide the executive and legislative branches of the Federal government with an extremely useful data base for understanding States' implementation of the JOBS program. While we are committed to accurate reporting of all statutorily required data, as indicated in the preamble of the proposed rule, we are open to suggestions and alternative approaches.

Question. States are concerned that the detailed administrative requirements you have imposed, regarding issues like tracking participation, will force States to spend their resources on administration rather than services to recipients. They believe this will thwart their attempts to reduce welfare dependency. What is your response?

Answer. There is a misconception about tracking requirements under the proposed regulations. It was never our intention to require every State to track the actual number of hours each individual participates in a particular activity. What States will have to do is place an individual in an assignment of specified duration, for example 20 hours a week, and then monitor whether the individual is satisfactorily participating in that assignment. Monitoring satisfactory participation does not mean that States must assure the individual attends every hour of the program.

Question. The legislation requires States to "guarantee" child care to JOBS participants. In several ways your proposed regulations would contravene that guarantee. For example, you require applications for transitional benefits, you deny child care to children over age 13, and you refuse to fund resource development activities. How do you expect States to "guarantee" necessary child care under these circumstances?

Answer. In the proposed regulations we distinguish between the absolute entitlement of employed AFDC recipients and former recipients in transitional status to receive child care benefits, and the conditional entitlement of AFDC recipients in the JOBS program or in self initiated education and training. We believe that the best reading of the Statute is that the State is required to guarantee child care for the latter groups to the extent that it requires such individuals to participate in JOBS. Thus, if a State has insufficient resources to pay for child care or the supply of appropriate child care is insufficient, a State could not require individuals to participate in JOBS.

In response to the specific points raised in the question: (1) In proposing to require an application for transitional child care, we were responding to concerns expressed by several States about their inability to administer retroactive eligibility under a less structured system. In addition, the application requirements set up a process whereby a State can assess a family's need for child care and determine the contribution of the family based on the State's sliding fee scale as required by the statute. (2) In setting the age limit at 13 for child care, we believed that it was important to set some broad Federal limits on child care funding within which States would have a great deal of flexibility in designing their child care system. We chose age 13 because it is consistent with the age of eligibility for the Dependent Care Tax Credit as provided in the Family Support Act. (3) On the prohibition on funding for resource development, the Conference Report specifically considered funding for provider development and training and rejected the proposal. There are several bills in Congress currently that are intended to address the subject of child care generally.

Question. Your participation requirements are not very popular with States. Why did you develop such restrictive standards, such as the 20-hour standard? Shouldn't States be given greater flexibility to set their own requirements?

Answer. The Statute makes clear, and we are firmly committed to the principle, that participation in the JOBS program, which qualifies a State for enhanced matching, must be meaningful and significant. In order to achieve this statutory requirement, there must be a minimal Federal standard for what constitutes participation.

We believe that effective participation is measured primarily by the number of individuals who are successfully provided the work, training, and education skills that can then lead them to find and retain employment. By limiting our definition of program components counting toward participation, we hope to provide a strong incentive to States to focus their resources on those activities which offer employment potential.

There is some confusion over what the minimum standards are, however. There are actually three standards. In the case of all educational components—which we expect to be a significant part of the program—the standard is not 20 hours. It is the number of hours as determined by the educational institution the individual is attending. In the case of skills training, job search, and CWEP, it is 20 hours, which is basically half-time in an effort to become self-sufficient. In the case of OJT and Work Supplementation, the standard is full-time because these are work components and are generally used for full-time jobs. We would also point out the States have the flexibility to combine activities and count that as participation.

Question. Congress envisioned extensive coordination of program services with other agencies. Are your regulations consistent with Congressional intent in this area?

Answer. Yes, they are. From the time the Family Support Act was enacted in October 1988, we firmly believed that it was important to take the lead at the Federal level in promoting coordination and that the only way to have a quality regulation was to involve, early on in the process, the key Departments, State and local agencies, public interest groups and all other organizations that have been involved in helping the disadvantaged become self-sufficient. We developed productive working relationships with our counterparts in the Departments of Labor, Education, and Interior as well as other components of Health and Human Services, such as the Office of Human Development Services during the development of the proposed regulations. We also developed an effective dialogue with State welfare directors, labor and education organizations and interest groups. In all, over 26 meetings were hosted or attended during the development of our regulations. The proposed rules reflect information provided by these organizations and have benefitted greatly from their input. We plan to continue these extensive coordination activities throughout implementation.

Section 250.12 of the proposed regulations contains the coordination and consultation requirements. Beyond requiring coordination, we ask States to specifically describe in their State plans efforts to coordinate with JTPA, basic and adult education programs, programs under Carl D. Perkins Vocational Education Act and other vocational services, and other human development programs. We also specifically address the need for coordination between States and Indian Tribes or Alaska Native organizations which have separate programs.

Question. Some are suggesting that these proposed rules are designed to sabotage the JOBS program. What have you done to demonstrate your commitment to its implementation?

Answer. Our greatest demonstration of commitment to implementation of JOBS was the coordination activities outlined above and timely publication of the proposed rules on April 18, 1989. In addition, we issued guidance to States in the form of an information memorandum on January 19, 1989 on how to submit a State plan to begin a JOBS Program on July 1, 1989 prior to publication of final regulations. We also provided initial application guidelines on February 24, 1989 to officials of federally-recognized Indian Tribes and Alaska Native Organizations so that they could meet the statutory deadline of April 13, 1989 for applying for direct funding to conduct a JOBS program.

The Secretary has repeatedly stated that implementation of JOBS is one of his highest priorities, and he demonstrated his personal concern by meeting with Governor Castle of Delaware, who represented the National Governors' Association, on June 19, 1989.

Question. To what extent were State welfare agencies, education and training agencies, labor groups, and advocacy groups involved in the development of the proposed rules?

Answer. The Family Support Administration began meetings and discussions soon after passage of the Act and continued contact throughout the development of the regulations. We maintained an effective dialogue with State welfare directors, the National Governors Association, the American Public Welfare Association, the Native American Employment and Training Coalition, the National Association of Counties, the National Alliance of Business, the Coalition on Human Needs, the AFL-CIO, the National Association of Private Industry Councils, and the United Way of America, to name just a few. We also held discussions with private school organizations and with the Literacy Volunteers of America. We sent representatives to regional meetings of the State directors of adult education. In all, over 26 meetings were hosted or attended between September and March.

PREPARED STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

On October 13, 1988, President Reagan signed the Family Support Act into law (Public Law 100-485). The Act significantly redefines the objectives of the Aid to Families with Dependent Children (AFDC) program. Where the AFDC program had been since its inception as Title IV of the 1935 Social Security Act—primarily a cash assistance program, with a minor work-training component, it is now meant, first and foremost, to assist parents in becoming self sufficient.

Indeed, one might say that our new law has been a half century in the making, a half century that has witnessed vastly changed social circumstances: women—including mothers entering the labor force in record numbers; rapid growth in single-mother families, not because fathers have died but because they divorce, separate, or never wed the mothers of their children; and a very disturbing trend in which the above-mentioned absent fathers fail to provide systematic financial support for their children. For these and other reasons, children are now our poorest citizens.

We intended the Family Support Act to address these new social conditions. Title I of the Act seeks to strengthen the enforcement of child support from absent parents. Title II creates the new Job Opportunities and Basic Skills (JOBS) program, a program that will provide capped entitlement funding for education, training, and work experience to help poor parents leave the welfare rolls for payrolls. Title III guarantees child care fob parents participating in the JOBS program and provides up to one year of transitional assistance with child care and medical care after a family leaves REDC for a job. Title IV requires all states to implement the AFDC-Unemployed Parent program (beginning October 1, 1990), insuring that all poor children will receive some assistance whether they live with one or both their parents.

As difficult as it was to move the Family Support Act through the legislative process, from bill to law, I dare say the next step—the implementation of the Act—is even more challenging. The Secretary of Health and Human Services and the governors and state and local welfare commissioners are now charged with translating statutory intent into programmatic reality. The success of the Family Support Act, the futures of poor children, depend upon their good faith efforts.

It is with great interest, therefore, that we convene this Subcommittee hearing on the newly proposed federal regulations. Secretary Sullivan and his staff are to be commended for publishing these proposed regulations six months from date of enactment, just as the Family Support Act required. We welcome our expert witnesses who care enough to master the law and the regulations and to share their insights with us and with the Department of Health and Human Services.

PERCENT OF BIRTHS TO UNMARRIED WOMEN BY RACE, 1986: CITY RANKINGS (NATIONAL AVERAGE, CITIES OF 100,000+: WHITE—22.5%; BLACK—65.6%)

White—highest ratios [1] (percent)		Black—highest ratios (percent)	
1) Hartford, CT	57.4	1) Baltimore, MD	80.4
2) NYC (Bronx), NY	52.3	2) St. Louis, MO	79.7
3) Los Angeles, CA	37.2	3) Allentown, PA	78.3
4) Newark, NJ	36.1	4) Peoria, IL	78.0
5) San Bernard., CA	36.0	5) Davenport, IA	77.8
6) Paterson, NJ	35.2	6) Erie, PA	77.6
7) Pueblo, CO	34.6	7) Philadelphia, PA	77.2
8) Jersey City, NJ	34.3	8) Pittsburgh, PA	76.9
9) NYC (Manhattan)	34.0	9) Rockford, IL	76.8
10) Springfield, MA	32.8	10) Buffalo, NY	76.7
11) Fresno, CA	32.0	11) Springfield, IL	76.5
12) Stockton, CA	31.6	12) Louisville, KIT	76.2
13) Providence, RI	31.6	13) Evansville, IN	76.1
14) Baltimore, MD	31.5	14) Chicago, IL	76.1
15) Syracuse, NY	31.0	15) Cleveland, OH	75.9
16) NYC (Whole), NY	30.0	16) Milwaukee, WI	75.8
17) Oakland, CA	29.4	17) Paterson, NJ	75.6
18) Buffalo, NY	29.3	18) Albany, NY	75.3
19) Berkeley, CA	29.2	19) Dayton, OH	75.1
20) Cleveland, OH	29.0	20) Newark, NJ	75.0

[1] The category "White" includes most Hispanics.

White—lowest ratios [1] (percent)		Black—lowest ratios [2] (percent)	
1) Livonia, MI	5.0	1) Honolulu, HI	11.2
2) Ann Arbor, HI	5.7	2) El Paso, TX	20.4
3) Strlg. Hgts, HI	5.8	3) Arlington, TX	21.7
4) Raleigh, NC	5.9	4) Clrdo. Sprgs, CO	29.4
5) Montgomery, AL	7.3	5) Irving, TX	30.0
6) Arlington, TX	7.8	6) Mesa, AZ	30.8
7) Beaumont, TX	8.5	7) Anchorage, AK	31.8
8) Jackson, MS	9.1	8) Amarillo, TX	33.2
9) Birmingham, AL	9.4	9) Oxnard, CA	36.3
10) Greensboro, NC	9.5	10) Ann Arbor, HI	36.4
11) Hampton, VA	9.7	11) Fremont, CA	37.0
12) Huntsville, AL	9.8	12) Austin, TX	37.1
13) NYC (Staten Isl.)	9.9	13) Virginia Bch, VA	37.4
14) Stamford, CT	10.3	14) Santa Ana, CA	37.8
15) Winst.-Salem, NC	10.3	15) Garland, TX	39.3
16) Virginia Bch, VA	10.3	16) Anaheim, CA	39.8
17) Charlotte, NC	10.3	17) Bridgeport, CT	40.6
18) Newport News, VA	10.4	18) Lubbock, TX	40.9
19) Durham, NC	10.6	19) Aurora, CO	43.3
20) Columbia, SC	10.8	20) San Antonio, TX	43.7

[1] The category "White" includes most Hispanics.
[2] Cities with fewer than 100 black births in 1986 have been excluded.

Source: National Center for Health Statistics: *Vital Statistics of the United States, 1986, Volume I—Natality,* pp. 205–219.

PERCENT OF BIRTHS TO UNMARRIED WOMEN BY RACE, 1986: STATE RANKINGS (NATIONWIDE: WHITE—15.7%; BLACK—61.2%)

White—highest ratios [1] (percent)		Black—highest ratios (percent)	
1) California	24.4	1) Pennsylvania	74.1
2) New Mexico	23.3	2) Wisconsin	73.7
3) Arizona	21.1	3) Illinois	72.4
4) New York	19.9	4) Missouri	69.7
5) Oregon	19.7	5) Indiana	68.6
6) Maine	18.7	6) D.C.	68.3
7) West Virginia	18.1	7) Ohio	68.1
8) Washington	17.9	8) Delaware	67.7
9) Vermont	16.7	9) Tennessee	66.8
10) Rhode Island	16.6	10) Nebraska	66.2

White—lowest ratios [1] (percent)		Black—lowest ratios [2] (percent)	
1) Alabama	8.6	1) North Dakota	3.5
2) Utah	9.1	2) Hawaii	12.9
3) Mississippi	9.2	3) South Dakota	17.7
4) North Carolina	9.7	4) New Hampshire	21.0
5) North Dakota	9.8	5) Alaska	30.1
6) South Dakota	10.1	6) New Mexico	39.4
7) Georgia	10.4	7) Utah	42.4
8) South Carolina	10.5	8) Washington	44.2
9) Louisiana	11.0	9) Colorado	45.1
10) Michigan	11.3	10) Texas	49.1

[1] The category "Whites" includes most Hispanics.

[2] States with fewer than 100 black births in 1986 were excluded from this list. They include Vermont, Idaho, Maine, Montana and Wyoming.

Source: National Center for Health Statistics: ***Vital Statistics of the United States, 1986, Volume I—Natality,*** pp. 205-219.

The Washington Post May 14, 1989

SE Mother's Love Triumphs Over Lure of Drugs

BY GARY A. CAMERON—THE WASHINGTON POST

LaShon Randolph, center, and children, clockwise from left: William, Quincy, Kisha, Anthony.

By Patrice Gaines-Carter
Washington Post Staff Writer

LaShon Randolph is working today, as she has on many other Mother's Days. In the past, she has cleaned toilets as a custodian and changed bedsheets as a nurse's assistant, sometimes working seven days a week to support her family.

She had her first child at age 14 and was married at 15. By the time she was 18, she had four children. For eight years, Randolph, now 35, has been a single parent.

She'll work from 7 a.m. to 7 p.m. today, riding in an ambulance as an intermediate paramedic. Whenever the crew members pick up the bullet-riddled body of some young black man—as they do nearly every day—she usually thinks of her three sons and her daughter at home.

"It is depressing seeing so many young black men dying," Randolph said. "It makes it hard for me to let go of my boys, but I know that it's almost time."

Although she lives in one of the toughest areas of the city, her concerns for her children are the same as those of any mother in McLean or Potomac. Randolph is determined that when she loosens her grip on her children, they will leave her prepared to meet any challenge.

See MOTHER, A21, Col. 1

SE Mother Gives Children Everything Love Can Buy

MOTHER, From A1

She has given her children everything love can buy. They inherited her affection for family, her faith in God, her determination to get a better education, her healthy sense of self-esteem. They live in a neat brick two-bedroom row house on Atlantic Street SE in Congress Heights, a home Randolph and her husband bought when she was 16. It is a neighborhood where sharp-eyed youths stand on some corners selling drugs, but the Randolph children have never been in trouble.

"My mother set us on the right path and all we had to do was follow it," said William Randolph, 19, a cadet in the D.C. Fire Department and a student at the University of the District of Columbia.

"There was a year-and-a-half period when I raised my kids with notes on the table that said things like 'Iron your clothes,' 'Do your homework,' 'Cook the hamburger,' " Randolph said.

Her children, seated in the family's living room, laughed as they recalled the notes.

"If the house wasn't clean when she got home, she'd wake us up to clean it when she got home," said Kisha Randolph, 17, a 10th grader.

"We did what we did because we loved her, and so things wouldn't be so hard for her," said Anthony Randolph, 20, a sophomore at Norfolk State College who hopes to become a lawyer. "What is peer pressure compared to the pain we could have caused her if we had gotten into trouble? When I got out there, I could hear her voice."

Said William, "I hung out with friends, but when they started doing wrong I had an incentive to come home: my mother."

"I try to listen to my mom, play sports, and follow my older brothers and sister because they are my role models," said Quincy Randolph, 15, a ninth grader.

The children said they also saw the pain their uncle, Randolph's brother, caused their mother when he became addicted to drugs.

"Don't think our life has been easy," said Anthony, who counts among his childhood memories a time when their house was not furnished as well as the homes of their friends.

The boys' bedroom is filled with trophies for basketball, football and baseball, activities that they said helped keep them off the streets and built their self-esteem. They thank their father for introducing them to sports and they boast of going to banquets as a family and walking away with the top honors.

The Randolph children will celebrate Mother's Day late, taking their mother shopping for a gift next Saturday.

Randolph was living with her mother, a social worker's aide, and her grandparents when she got pregnant with her first son. She does not remember ever seeing her own father.

Her life changed drastically after she got pregnant and dropped out of school in the 10th grade.

"They put me in a home for pregnant girls," she said. "A week after I got there, my mother died of pneumonia. I was supposed to give up the baby, but my grandparents felt two losses would be too much for me. So they let me keep my son."

From the beginning, she considered parenthood a serious job. She stayed home for a couple of years with her first two babies, but after Kisha was born, Randolph went to work at Washington Hospital Center, where she trained to become a nurse's assistant.

She left that job after a short stay so she could be with her children. Although her husband worked irregularly and being at home meant being on welfare, Randolph believed no one could give her children the care she gave them.

"I think because of my mother's death, I always had a fear that something would happen to me and I wanted to spend time with my children and raise them to be able to take care of themselves," she said.

Once she had so little income that she was forced to put cardboard in the bottom of her nurse's shoes to cover up holes. "Sometimes I was so depressed," Randolph said.

But people whose lives she touched at the hospital don't remember her depression; they remember her determination and the joy she gave to others.

"The one thing that always struck me was her courage," said Nel vau-Beusekom, Randolph's former supervisor at Washington Hospital Center. "No matter how many personal problems she had, she was always pleasant and good for the patient."

In 1986, after working 13 years at the hospital, she was laid off. For 18 months she worked at Roosevelt High School, "scrubbing toilets," as she described it, from 3:30 p.m. until midnight. It was during this time that she communicated with her children through notes and by phone.

"I asked her once how she could raise such healthy children while living in the middle of the drug market," said Mark Venuti, a lawyer who met Randolph when she went to him to get her divorce. "She said she believes children imitate their parents, and so she's tried to set a good example."

Her children believe their family discussions about curfews and broken rules have helped. "If we did something really bad, all of us would sit at the dining room table and my mother would hold court," Anthony said.

"She would be the judge and sometimes you might be a witness and other times you might be on trial," he said. "Sometimes they went on all night and we laughed and cried. But we all learned from each other's mistakes."

Open communication with her children was important because one of the things Randolph hated most about her own childhood was "that in our house, children were to be seen and not heard," she said.

Three years ago, Randolph started working for the D.C. Fire Department as an emergency medical technician. She has been promoted several times, and in February she graduated from an intermediate paramedic training program, which Randolph, who now makes $23,000 a year, called "the hardest thing I have ever done."

If she passes a year's internship, she'll return to school in January to complete her training and become a full paramedic. Gone are the days when her lack of education made her the brunt of jokes.

"That hurt my feelings, but it made me realize that what I projected was what my kids would copy. When people said, 'This woman having all these children is nothing,' that motivated me," Randolph said. "In my last training class I know I was labeled as the one who wouldn't make it, and that was a challenge to me."

Now she is motivated by the desire to move into a larger house, in Prince George's County.

"I want to move to Mitchellville. Have you seen those big houses out there?" Randolph asked. "I go there every Sunday, sit in my car, stare at one of those houses and just imagine what it would be like to live in one."

Of course, on Mother's Day she thinks of her own mother.

"I thought my mother was bad because she was strict," Randolph said. "By the time I got old enough to appreciate her and understand, she was gone."

Still, her mother's life breathed shape into her own.

"I stayed married so long because I wanted my children to have what I didn't have: a father and a mother," she said. "I wanted them to have everything. I wished my mother had lived long enough to become my friend—and so I have tried to be a friend to my children."

The New York Times - May 15,1989

Constant Reality in a Project: Fear of Violent Drug Gangs

By JAMES C. McKINLEY Jr.

Mary Singleton says she knows two apartments in her building where people sell crack, bringing addicts and random gunfire to what was once a decent, safe housing project. But Ms. Singleton says nothing to the police. The last time she complained, she says, her teen-age daughter was attacked, beaten and threatened with a razor.

"When you tell the police and you are left stranded, there's a lot of fear," she said. "The cops left me hanging."

Ms. Singleton, a graying woman of 42, has deep worry lines under her eyes, perhaps in part from living in the Edenwald Houses in the Bronx, where Federal authorities recently broke up a drug-dealing ring, known as the 41 Crew, that they said held the project's 6,000 residents "under siege."

An Atmosphere of Dread

But a week after the indictment of 10 people as members of the ring put an end to what the police called the largest criminal organization in the 61-building complex, several residents spoke of an atmosphere of dread still pervading the red-brick high-rises and asphalt courtyards of the Edenwald Houses.

The arrests, while dealing a blow to the virulent drug trade in some buildings, have not ended the ordeal of the residents. On Friday, three people, the casualties of warring drug factions in Edenwald, were found shot to death in an apartment building not far from the project. Dozens of dealers belonging to as many as 10 smaller gangs, residents say, are still operating crack houses in the Edenwald complex, at East 229th Street and Laconia Avenue in the Williamsbridge section.

Of the 10 indicted, six are being held in the Federal jail in Manhattan without bail; two have been released on bail, and two are serving state prison terms for other crimes.

The police say they investigate every complaint, including those like Ms. Singleton's, but are often unable to substantiate them. Search warrants are difficult to obtain, they said, without the help of informers who have been inside the apartments. And informers are in short supply because they have

Continued From Page A1

more to fear from the dealers than from the police.

"We're living in fear," said a mother of two who lives in the projects and asked not to be identified. "My kids are scared to go out the door."

Another mother, who also asked for anonymity, said she scheduled her trips in and out of her apartment in 1141 East 229th Street to coincide with times when maintainence crews were cleaning the hallways. That way, she said, she avoids crack users who often linger outside her apartment door.

In the last three years, residents said, drug trafficking has transformed Edenwald from a quiet, relatively safe community into a hellish place where gunfire often rings out in hallways or on playgrounds, where drug dealers recruit teen-agers to sell crack or act as lookouts, where tenants are held hostage by scores of drug addicts in the hallways and stairwells.

'Shooting Up' in Hallways

"When I first moved here, this was a nice project, a good place to live," said Ms. Singleton, a single mother who has lived at 1159 East 229th Drive since 1980 and works as a secretary for a hospital workers union, Local 1199 of the Drug, Hospital and Health Care Employees Union.

"Now we have shootings," she said. "We have people who have been robbed here. We find crack people shooting up or smoking the stuff in the hallways."

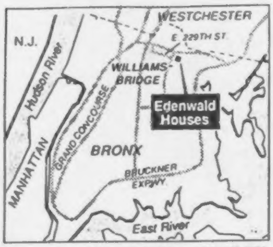
The invasion of drug dealers has caused the number of crimes in Edenwald to more than double in the last five years, according to New York City Housing Authority statistics. The number of assaults rose to 149 last year, up from 66 in 1984, and larcenies and robberies nearly tripled over the period, to 99 and 88 respectively.

Before 1985, the Edenwald Houses had one or two murders a year, usually stemming from domestic disputes. Since 1986, when the crack trade first appeared in Edenwald, 11 people have been killed, 8 of them in gunfights set off by drugs. Last year, all 4 of the people killed in the project died in drug-related shootouts.

The violence escalated in January, when 5 men were wounded in a gunfight outside a building at 1132 East 229th Street, which until recently was controlled by drug dealers. Another man was shot eight times in March in a drug dispute a few hundred yards away but survived.

'Like the Wild West'

"It was like the Wild West," said Lieut. David Cuevas, who heads a 16-officer narcotics task force set up in February in response to the shootings. "The projects were just being run by local criminals."



The New York Times/May 15, 1989

The Edenwald Houses have been held under siege by drug gangs.

"The tenants are terrorized," added Detective Harry Graves, a member of the task force. "That's why we're here, to take back the buildings."

The task force took over the ground floor of the building at 1132 East 229th Street and, like soldiers establishing a beachhead, pushed the drug dealers out. Officers now use its roof to spy on dealers in other parts of the complex.

Since Feb. 14, the task force has arrested 380 people on drug charges, with most of them between the ages of 16 and 21. The onslaught on low-level dealers helped force the leaders of the 41 Crew into the open to sell drugs themselves, Lieutenant Cuevas said.

The United States Attorney's office and the Federal Drug Enforcement Administration then stepped in to arrest the gang members and seize their assets under Federal laws, using many of the task force's witnesses and surveillance records.

The 41 Crew, headed by 22-year-old George (Geto) Silvia, sold about $20,000 worth of crack every day in one of the complex's buildings at 1141 East 229th Street, turning it into a giant crack den with addicts loitering in hallways and drug deals being made in the lobby, according to the indictments and the Housing Authority police.

Dread of dealers — and violence persists despite a wave of arrests.

Federal authorities confiscated seven luxury cars belonging to gang members, $230,000 in cash and an arsenal that included a hand grenade, a shotgun, several semiautomatic handguns and a military assault rifle, the indictment said. In a separate action, the authorities evicted the tenants of four apartments in other buildings that they believed were being used as crack houses.

'You Pray a Lot'

Despite the arrests and evictions, many mothers at Edenwald said they were still afraid to allow their children to go outside, even in daylight. Most of those interviewed said they were afraid to help the authorities find and prosecute dealers. And most asked not to be identified for fear of reprisals from dealers.

"You keep to yourself," said Sandra V., a resident of 1138 East 229th Street, who asked that her last name not be used. "You pray a lot. You tell your kids to steer clear of trouble. You go back to your roots. And you keep hoping you can move somewhere else."

Esther Watkins, a young mother of three who lives at 1138 East 229th, said she rarely dared to leave her apartment. "After it gets dark, I don't go outside by myself, not even to the store," she said. "You can't even take your kids to sit in the park anymore. Someone's shooting over there."

A woman who lives in the building at 1141 East 229th said that although she knew who was dealing crack in her building, she was afraid to be a witness for the police. Her son, who is 23, works at night, she said, and she often lies awake waiting for him to thread his way through the gantlet of addicts and pushers to her apartment.

"The dealers don't take it out on you," she said. "They take it out on your children."

Only One Entrance

One obstacle for the police has been the physical layout of the buildings. Each has only one entrance, surrounded by concrete ramparts. When plainclothes officers come near a building where crack is being sold, teen-age lookouts whistle loudly or shout, "Five-oh," a signal for the dealers to sprint upstairs into apartments.

Once a dealer is inside an apartment, the police legally cannot enter without a search warrant. To get a search warrant, the police need informers to establish probable cause that crack is being sold there.

But the pervasive dread of the dealers makes it extremely difficult to recruit informers, officers said. "The informants say to us: 'What are you going to do? Lock me up? Go ahead,'" said one detective. "That's because they know these dealers will kill them."

THE NEW YORK TIMES, MONDAY, MAY 15, 1989

Trying to Reach Mothers to Give Babies Better Starts

Special to The New York Times

CHICAGO, May 14 — Edith McAfee was more than eight months pregnant before she first went to a Chicago public health clinic for prenatal care.

"It was summer, and everything was going good," explained Ms. McAfee, who is 19 years old and unemployed. "I had a lot of fun and stuff. And it didn't seem right that I was pregnant again."

Brendan McAfee was born healthy on April 11, just three weeks after his mother first saw a doctor. Thousands of other women and their children are not so fortunate.

Many infants who die within the first year of life, or who are born prematurely, underweight or ill, are the children of mothers who did not receive medical care until late in their pregnancies, if at all. Many could have been saved if the mothers had been treated earlier for problems like improper diet, hypertension, anemia and sexually transmitted diseases.

Chicago has one of the highest infant mortality rates in the country. In 1987, the figures were 16.6 deaths for every 1,000 live births, or 914 deaths out of 55,216 live births. There were nearly 23 deaths per 1,000 births among blacks.

'Right From the Start'

Now health officials here have joined with corporate sponsors in a campaign to bring women into prenatal care earlier. The program, "Beautiful Babies . . . Right from the Start," offers pregnant women a coupon book with $600 in discounts on baby-care goods, vitamins, maternity clothes, furniture, diapers, toys and services like classes, haircuts and car rentals. The coupons can be redeemed at stores only after being stamped by a doctor after the woman's monthly prenatal visit.

While the campaign is open to every pregnant woman, the groups considered to be at highest risk are poor, black or Hispanic mothers, under 15 or over 35 years old, drug or alcohol abusers and those who have had a previous child born under five and a half pounds.

The program, which began in Chicago in January, made its first appearance two years ago in Washington. Jerry Wishnow, a Boston-based promoter of public-service projects, proposed the campaign to combat infant mortality in the United States, where the rate is 10 deaths per 1,000 live births, higher than in 18 other industrialized nations.

The campaign is being sponsored by the University of Chicago hospitals, some corporate and foundation donors and WBBM-TV, which has donated programming about the importance of prenatal care and the availability of the coupon books. The Chicago Tribune also published a supplement dealing with the program.

The booklets are available at drugstores and medical clinics and can be ordered by phone. Besides the coupons, they contain emergency telephone numbers, information about nutrition and community services and explanations of what mothers should expect in pregnancies.

Filling a Need for Education

So far, there have been 41,000 requests for the coupon books, and 7,000 doctors have asked for the stamps used to validate the coupons. The campaign has cost $1.3 million, not including the publicity donated by WBBM. "Our key goal is to get women into care earlier, and to get them to go more often," said Leatrice Berman, administrator of the Perinatal Network at University of Chicago Hospital and general manager of the campaign.

Pregnant women put off getting medical attention for a variety of reasons.

Helen Kinney, a social worker at a health clinic for mothers and children on the city's South Side, says many women she sees have mixed feelings about their pregnancies, especially if they have recently given birth. Pregnant teen-agers may be afraid to confront their parents. Many mothers who are struggling to feed and shelter their families do not have the time to see a doctor, Ms. Kinney said. Others are not aware that free or low-cost medical care is available.

Success in Washington

An extensive evaluation of the Chicago program is being planned for about a year from now.

In Washington, where an estimated 70,000 residents received coupon books starting in 1986, prenatal visits to public health clinics increased by 22 percent in the first year of the campaign. Infant mortality decreased to 19.6 from 21 per 1,000 births.

Blue Cross and Blue Shield of Washington, which has contributed $471,000 to the program, has also seen some improvement. Insurance claims for seriously ill babies decreased to $3.2 million in 1987 from $4.3 million in 1985. In that period, however, there were fewer maternity claims in general, and the proportion of claims for sick babies remained about the same.

While health professionals in Chicago are enthusiastic about the prospect of curbing infant mortality, they say the program has its limitations. Doctors in the poorest areas say many patients will not be able to make much use of the coupons because they do not have enough money to buy even the discounted goods.

James Masterson, deputy health commissioner in Chicago, said a third of infant deaths in the first year occur after the child leaves the hospital. "We can save very young babies, but once we let them out of the hospital, the environment takes over," he said. "There isn't enough to sustain life."

The New York Times - May 15, 1989

Campaign Matters

Board's Search May Determine Green's Legacy

By SAM ROBERTS

The sudden death last Wednesday of Richard R. Green, the city's Schools Chancellor, prompted Rudolph W. Giuliani, the former Federal prosecutor, to postpone the celebratory news conference he had scheduled for later that morning to declare his candidacy for mayor. The enduring political impact of Dr. Green's death will depend largely on how long it takes to choose his permanent replacement and how boldly the new chancellor approaches the job.

Arguably, it is in Mayor Edward I. Koch's interest that the selection process be abbreviated. Disarray will further delay progress toward the educational goals he had proclaimed as a priority of his third term. Politically, a divisive selection process doesn't do him any good either.

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In 1987, for more than four months before a search committee agreed on Dr. Green, debates raged over whether the chancellor had to be a member of a minority group — as are 80 percent of New York City's public school students — and, if so, whether he should be of Hispanic descent, as were his two predecessors, or be the first black to head the nation's largest school system.

Delay in picking a successor could hurt Koch and help his challengers.

On the day Dr. Green died, the lobbying began again — either for a specific candidate or an unspecified representative of a particular minority group. Meanwhile, several mayoral candidates recommended delay, because they benefit from Mr. Koch's discomfiture, or so they would have a voice as mayor in selecting the chancellor for whose performance they might be held accountable.

"I only wish as many people that got out statements on a successor to Green had voted in the school board elections," said David Garth, Mr. Koch's political strategist.

The school system is, putatively independent of the mayor, except that the city pays most of its bills. And, in this case, the board president, Robert F. Wagner Jr., was Mr. Koch's candidate for that job. Mr. Wagner had planned to remain on the board but not seek re-election as president when his term expires in July. Now, he expects to stay on.

Mr. Koch has vowed not to involve himself in the search for a new chancellor, since expressing his preference publicly for one prospect would, inevitably, alienate the constituency of every candidate who was overlooked. With a surrogate as board president, Mr. Koch can more comfortably keep his distance.

Two early favorites for the chancellorship, Dr. Bernard G. Gifford and Dr. Bernard Mecklowitz, were considered last time, but were not among the three finalists. Dr. Gifford, a former deputy chancellor who now works for Apple Computer, was embittered by the response to his public campaign for the post. But after a private get-together at Gracie Mansion last year, Dr. Gifford, who is black, was mildly assuaged; Mr. Koch was impressed. Mr. Mecklowitz was superintendent of District 1 in lower Manhattan, where he won the respect of the Hispanic community, Felix G. Rohatyn, chairman of the Municipal Assistance Corporation, and Richard Beattie, a former board member. He was named deputy chancellor in February by Dr. Green.

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In death, Dr. Green and his record were magnified. The huge turnout at his memorial service Friday reflected his symbolic importance as the first black chancellor and as the embodiment of a system that, by default, represents hope for salvaging the next generation. Schools provide the first regular link between families in need and government social services. Viewing their role more broadly might eventually enable them to perform their primary mission more effectively.

Last week, Sandra Feldman, the teachers union president, proposed that the city open boarding schools for students having trouble at home or in traditional classes. City welfare officials are exploring the possibility of a kibbutz-style shelter in which drug-addicted mothers, in order to remain with their children, would be required to undergo treatment.

Even raising such politically sensitive proposals will test the resolve of the candidates for mayor and chancellor. One measure of the deep skepticism about the existing system and its attendant bureaucracy is Ned O'Gorman's refusal to accept public funds for his widely praised 98-student Children's Storefront in East Harlem, which is to graduate its first eighth graders next month. Instead, he hopes to subsidize some of the $12,000-a-year cost of educating each bright but poor student with contributions from the city's private schools.

One measure of the current mind-set about education was the suggestion by parents and a union leader that schools be closed last Friday in memory of Dr. Green.

"We checked with the family," Mr. Wagner said, "and the last thing in the world Richard Green would have wanted was the closing of schools as a way for him to be remembered."

PREPARED STATEMENT OF SENATOR WILLIAM V. ROTH, JR.

Mr. Chairman, I want to compliment you on holding this hearing to examine the proposed regulations for implementing the Family Support Act passed last year.

I believe it is important to make clear this committee's continuing interest in welfare reform. All too often, the view seems to be that it is enough simply to pass legislation. This hearing sends a clear signal that we are also concerned about the implementation of the laws we pass and that we intend to engage in active oversight to insure our legislative goals are met.

The list of witnesses appearing before us is impressive and representative of the various levels of government and people affected by our welfare reform initiative. If our oversight is to be effective, it is essential that many different perspectives be heard. I am particularly pleased that Governor Castle from my home state is a witness. As the Chairman well knows, Governor Castle is no stranger to this committee as he appeared before us several times during the welfare reform hearings last Congress. I welcome his testimony not only as the Governor of Delaware but also as a most effective spokesman for the National Governor's Association on this important issue.

COMMUNICATIONS

STATEMENT OF APWA NATIONAL COUNCIL OF STATE HUMAN SERVICE ADMINISTRATORS

(SUBMITTED BY CESAR A. PERALES, COMMISSIONER, NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES AND CHAIR, APWA

Good morning Chairman Moynihan and members of the Subcommittee. I am Cesar Perales, commissioner of the New York State Department of Social Services and chair of the American Public Welfare Association's National Council of State Human Service Administrators. As you know, APWA is a 59-year-old nonprofit, bipartisan organization representing the 50 state human service departments, 800 local public welfare agencies, and more than 5,000 individuals concerned with social welfare policy and practice. APWA advocates sound, effective, and compassionate social welfare policy at the national, state, and local levels, and brings state policy leadership to bear in national decision-making.

I am here today to represent the views of state human service commissioners on the recently-published proposed regulations for the Job Opportunities and Basic Skills Training Program (JOBS) and related supportive services of the Family Support Act of 1988 (P.L. 100-485).

Let me first say that the Department of Health and Human Services is to be commended for meeting the deadline for issuing the proposed regulations as set forth in the Act, and for doing so despite the complexity of the law and the change in administrations. As you are well aware, Congress clearly intended that the JOBS program be implemented by the states in a timely and efficient manner, and the availability of the proposed regulations will greatly assist in that task.

As this subcommittee knows, APWA played a key role in the development and enactment of the Family Support Act. Four years ago state human service commissioners, through APWA, began our own welfare reform policy development effort. Our report, *One Child in Four,* contained our recommendations for comprehensive reform of the nation's welfare system. The report highlighted the critical link between childhood poverty and family self-sufficiency. Commissioners understood, as this subcommittee has understood, that promoting a family's self-sufficiency through comprehensive education and training efforts leading to meaningful employment may well be the single most important public policy action to reduce poverty among children.

In an unprecedented move, the nation's governors also made welfare reform a policy priority. Through the National Governors' Association (NGA), they adopted a policy statement mirroring the major welfare reform recommendations of their human service commissioners. The Family Support Act of 1988 contains many of those recommendations, and establishes a framework for changing what has historically been an income maintenance system into a process that promotes the self-sufficiency of families receiving welfare. It sets out the education, training, and employment activities and support services necessary for families to make the transition from dependency to self-reliance.

Throughout the debate in the 100th Congress APWA advocacy was bipartisan and broadly representative of the views of the states. That continues today. My colleagues and I are closely involved in the regulatory process. Within our states, we are working to implement and refine the new JOBS programs and related support services under the Act.

In February, APWA and NGA convened a meeting of human service agency and governors' office staff to review the provisions of the Act. More than 120 officials from 32 states attended. They began an ongoing process of exchanging ideas and developing consistent views, where possible, on regulations governing the programs and activities called for in the Act, including the JOBS program, child support, and child care. The recommendations of the states on these issues were compiled into a report which was shared with Secretary Sullivan and staff of the Family Support Administration as well as members of the Senate Finance Committee. Last week APWA and NGA held another meeting attended by representatives from 35 states to review the proposed regulations in light of our earlier recommendations.

These discussions highlighted several concerns states share with regard to the proposed regulations. These provisions, if included in the final regulations, would adversely affect the design and operation of state JOBS programs and, therefore, the goal of strong, self-sufficient families. APWA and NGA are developing detailed comments on the proposed regulations for submission to HHS and we will share those comments with you as well. Today I would like to highlight some of our immediate and critical concerns with the regulations as proposed for the JOBS program and child care.

THE JOBS PROGRAM

As you will recall, the JOBS program is designed to assist welfare recipients—particularly those recipients who have been on AFDC for long periods of time and those who are at risk of long-term dependency—gain the education, skills, and opportunities needed to leave AFDC and enter into employment. For the first time, the Family Support Act mandates chat states offer a wide range of education, training, and employment activities in the JOBS programs, and provides important resources for this purpose.

A key feature of the JOBS program is the requirement that states provide appropriate education, training, and employment activities specifically tailored to the abilities and needs of individual participants. As recommended by APWA and NGA, this process includes an in-depth assessment of the participant and the family, including educational needs, child care requirements, and other service needs. The assessment will also examine the skills, prior work experience, employability, and other circumstances of the participant.

On the basis of the assessment, the agency is required to develop—working with the participant—an employability plan, setting out the participant's employment goals and activities and the services necessary to meet those goals. The employability plan reflects the obligations and responsibilities of the client, and the services that must be provided by the state to assure successful participation. States may then require participants to negotiate and enter into a client-agency agreement stipulating the client's obligations and the state's responsibilities in terms of JOBS and supportive services. States may also provide case management services to help the client and the family complete the program and enter employment.

By definition, this process calls for direct personal interaction with each client in order to meet the client's individual needs, skills, and family circumstances. The Family Support Act clearly recognizes that it is this one-on-one personal assessment and brokering of services that can lead to real success. It is a process that contrasts with a programmatic approach in which all clients are channeled into similar types of activities for a specified number of hours regardless of whether the activity is what the client needs to make the transition from AFDC to self-sufficiency.

DEFINITION OF PARTICIPATION

States are concerned that the proposed regulations could undermine the client/family assessment and employability plan process by requiring individuals to participate in JOBS program activities for a minimum period of time each month in order to be counted toward the Act's participation rate requirements. The proposed regulation defining participation is likely to reduce the prospects for client success by pushing recipients into activities simply to meet the participation rate quota, with little regard to whether the activities meet their needs and circumstances. That requirement, in combination with other proposed regulations, could result in state JOBS programs that rely heavily on the least intensive types of activities—such as job search or community work experience—for the majority of participants in order to ensure that the hourly requirement and the participation quotas are met.

Allow me to explain. For each activity outlined in the JOBS program, the proposed regulation defines participation in that activity for the purposes of determining whether a client "counts" toward a state's participation rate. Examples of those definitions follow:

- Educational activities: making satisfactory process (both a qualitative and quantitative measure);

- Job Skills Training: At least 20 hours of instruction or training per week;
- Job Readiness Activities: At least 20 hours of structured, guided activity per week;
- Individual Job Search: The equivalent in structured activity and employer contacts of 20 hours per week;
- Group Job Search: At least 20 hours per week;
- On-the-Job Training and Work Supplementation: Full-time work according to the standard of the occupation;
- Community Work Experience: The lower of 20 hours per week or the maximum hours of participation for that individual;
- Other Work Experience and other allowed activities: As defined by the state and approved by the Secretary;

The definitions within the proposed regulation do not include as participation (in order to count toward a state's participation rate) time spent in orientation, assessment, or developing the employability plan; time spent prior to or between assignment to an appropriate JOBS activity; or, in the case of training activities, time spent doing related "homework" or self-initiated "practice" outside the classroom.

We believe, as I am certain HHS believes, that participation in JOBS activities should be meaningful and should lead to employment. The proposed definition of participation, however, will cause problems for states and JOBS participants. This definition will lead states to measure meaningful participation solely in terms of compliance with arbitrary numbers—with meeting an unusually high hourly requirement. This will further dilute the meaning and importance of the assessment process and waste scarce resources on activities that may not lead to employment.

CONSEQUENCES OF HOURLY REQUIREMENTS

Based on discussions among the states last week, we believe that the unanticipated consequences of hourly requirements for individual components of JOBS activities will denigrate the stated legislative intent: the provision of individualized, intensive services to the most severely disadvantaged in our population. Arbitrary hourly requirements destroy the central purpose of individualized employability plans that carefully tailor services to build on client strengths, overcome client deficiencies, and move families toward permanent self-sufficiency. Experience shows that the critical activities of assessment and employability development planning are key to an individual's success in becoming self-sufficient. The hourly requirement, coupled with the participation rate, would drive the program toward unintended consequences, in place of achieving employment goals through the careful assessment and employability plan development process.

As drafted, the proposed regulation could also have the perverse effect of reducing the number of clients a state chooses to serve, and of increasing the costs of serving them. For example, if it is determined in a participant's assessment that 15 hours a week in a JOBS activity will lead to progress toward the employment goal, the state may opt not to proceed with that plan because a 15-hour activity would not "count" toward the state's participation rate. The state would have to find that client another 5 hours per week of activity, and quite possibly additional child care—no matter that it is unneeded and costly. With a limited pool of resources, fewer participants would be served, but more money would be spent.

The imposition of an hourly requirement is contrary to Congressional intent in the JOBS program. Congress specifically included the assessment and development of an employability plan as a way to determine activities appropriate to the individual client and the family. The Conference Report on the Family Support Act states, "participation must be something more than simple registration for the JOBS program; it must meet *state-established* requirements that are consistent with regulations of the Secretary" (emphasis added; page 148).

It would appear that Congress envisioned a significant role for the states in determining what constitutes participation. The proposed regulations would nullify that responsibility with an arbitrary and ineffectual federal standard. Moreover, it violates the delicately crafted bipartisan compromise on the work requirement.

The proposed durational definition of participation, or any other requirement that limits the ability of states to design program activities to meet the individual needs of clients will weaken the effectiveness and efficiency of the JOBS program. Channeling clients through activities for activities' sake simply to meet a participation quota and avoid the loss of federal JOBS funds is contrary to the intent of Congress and the goals of the Family Support Act. In addition, limiting qualifying participation solely to specific JOBS components ignores the absolute necessity of *preplacement* activity such as assessment, and the development of an employability plan—both of which are critical to the successful transition to self-sufficiency.

Based on state discussions last week, we recommend that a client's participation in any activity determined as appropriate through the assessment process, and outlined in the individual's employability plan, should constitute "participation" for purposes of determining a state's participation rate. This includes the assessment itself and development of the employability plan.

Rather than being held to an arbitrary federal participation standard, states recommend that they be allowed to rely upon the participation standards currently used by training providers who will continue to provide JOBS component activities on contract. This would, as the legislation intended, make maximum use of existing services and providers and avoid duplication and the establishment of separate service systems for AFDC recipients.

Most states plan to employ existing service providers to bring experience and expertise to job training, skills development, and other JOBS activities for AFDC recipients. These providers already have established practices, curricula, and standards. The imposition of different, and in most cases conflicting, hourly standards may lead these providers to refuse to serve the JOBS participants, as it is not realistic to expect them to change their programs to meet the new requirements. The alternative is possible as well—that providers may "load up" on hours in order to receive contracts, thus expending scarce JOBS program resources in additional activities simply to comply with the standards.

I also want to point out that, although the participation rates set by the statute appear to be modest at first glance, the computation formula that requires participation to be calculated on a monthly basis will result in rates that are actually much higher than those stated in the Act. Analysis of the participation quotas conducted earlier this year by the Congressional Budget Office and subsequent analysis by several states of the impact of the rates on their state JOBS programs show that the states' JOBS participation rates will have to be three times higher over the course of any year than those indicated in the Act. The proposed regulation will make it much more difficult, if not impossible, for most states to reach the participation quotas set by the Act and states will therefore be penalized by receiving less federal JOBS program funding

STATEWIDE JOBS PROGRAMS

The proposed regulations would establish guidelines for determining whether a JOBS program must operated on a statewide basis by October 1, 1992, as is required in the Act. The proposed guidelines would require states to have a minimal JOBS program in place in political subdivisions sufficient to serve at least 95 percent of the state's potential JOBS participants. States would also be required to have a complete JOBS program in all Metropolitan Statistical Areas and in political subdivisions sufficient to serve 75 percent of the state's participants. We are concerned that this guideline will result in inefficient utilization of resources and provision of inappropriate services for participants, especially in rural areas. The fear is that both component services appropriate to the needs of recipients and supportive services, especially child care and transportation, will not be available and that scare federal and state JOBS resources will be spread too thinly across the state to meet the needs of harder-to-serve clients.

In addition, the definition of "political subdivision" is too narrow. States should have greater control over the ability to define the boundaries of a JOBS program area, such as a JTPA Service Delivery Area (SDA) or on some other basis that more accurately reflects an appropriate labor market in a particular area of a state.

DATA COLLECTION AND REPORTING

States also are concerned about the uniform data collection and reporting requirements as stated in the proposed regulations. While the Family Support Act requires reporting of certain items in a uniform manner and permits the Secretary to require additional information to assist in the development of performance standards, the regulations drastically expand the data elements to be reported. This is done on the theory that the Act implies rigorous requirements based on the need to assure that the participation rates and targeting requirements are met.

The states believe that the proposed data collection and reporting requirements are unduly burdensome, particularly during the initial implementation of the JOBS program. During our discussion of this issue, many states indicated that it would be impossible to comply with the proposed requirements without a major upgrade of existing data systems. In addition, states believe that the expense entailed in collecting the required data would be so great that they would be forced to draw scarce federal and state JOBS resources away from program activities that directly assist clients.

LIMITING THE USE OF AFDC SPECIAL NEEDS PAYMENTS

The states oppose the proposed regulation prohibiting the current practice of allowing states to fund child care and other work- and training-related supportive services as special needs to participants in the JOBS program. States believe that limiting the use of these funds would inhibit the ability of participants to participate successfully in JOBS.

MAINTENANCE OF EFFORT

While states are generally satisfied with the proposed regulations regarding the "maintenance of effort" and non-supplanting of non-federal funds for existing services and activities that promote the purposes of JOBS, states believe that this requirement should be based on total expenditures. In other words, states should be required to maintain spending at the FY 86 level for all JOBS-related activities and services without having to maintain spending for each component, activity, service, or supportive service. This will allow states to continue past efforts without burdensome tracking of each individual activity and will allow the flexibility to adjust spending across the various components and activities. We are concerned, however, about the implications of the proposed regulation that would restrict federal reimbursement of JOBS-related activities to activities and services not otherwise available on a nonreimbursable basis.

Child Care

The states have expressed concern about a number of issues in the proposed regulations regarding child care that would limit the availability of reimbursement for this vital supportive service and would create undue burdens on states and clients alike.

The first of these concerns involves the proposed regulation defining how states would determine local market rates for child care. The proposed regulation would limit the local market rate to the 75th percentile cost of child care. States believe that this limit could severely restrict the availability of child care for potential participants in the JOBS program. Many states currently provide child care at levels above the proposed 75th percentile as a means of encouraging provision of care to children from AFDC families. The arbitrary ceiling would further exacerbate the problem of providing child care for participants. States also believe that the proposed regulation requiring states to set market rates for each "political subdivision" is unfeasible, particularly for rural states. Many rural counties lack sufficient child care providers to allow a satisfactory determination of a market rate. States would prefer a more flexible definition that allows them to define local subdivisions in order to better reflect geographic, demographic, and economic conditions.

The second concern is that the proposed regulations would prohibit any federal matching funds for the recruitment or training of child care providers, resource development, or licensing activities. The states believe that the final regulations should eliminate this prohibition. The enactment of a separate authorization for grants to improve state licensing and to monitor child care provided to AFDC children does not suggest Congress intended a prohibition on the use of other funds for activities such as recruitment and training. The states believe that expansion of child care is essential if AFDC recipients are to successfully become self-sufficient and recommend that these activities be reimbursed at the IV-A administrative matching rate of 50 percent.

The next concern has to do with transitional child care. The states oppose the proposed regulation requiring recipients moving off AFDC to apply for transitional child care benefits if they move directly—with no lapse—from AFDC to employment. The states believe that it is unnecessary to require more paperwork for their clients or themselves. They do support giving states the option of requiring such an application, however, when there is a gap of at least one month between leaving AFDC and the utilization of transitional child care benefits. They also support the notion that the client should then be eligible for only those months remaining of the 12-month period.

In addition, the states believe that the federal government should not establish limits for a sliding fee scale for transitional child care, but that the states should be allowed to set limits based on their experience and the particular needs of the state.

The states recommend that the state and the client each be responsible for paying its share of the cost of child care directly to the child care provider. The states believe that the client should contribute her share directly to the provider in order to encourage self-sufficiency. The states should also not be under federal obligation to monitor the client's payment to the child care provider.

Finally, states oppose the proposed regulation limiting the provision of child care to children under age 13. States recommend that the age of the child eligible for child care benefits be left to the state's discretion.

CONCLUSION

In conclusion, let me say that the states are very concerned that the tone of the proposed regulations for the JOBS program and related supportive services give the impression that states will not establish and operate meaningful JOBS programs for recipients—that states will try to circumvent the intent of the Act to somehow "game" the system. I want to assure this Committee in the firmest way possible that this is not the case. I remind you that states took the lead in establishing meaningful and successful education, training, and employment programs for welfare recipients. These successful state efforts were the guiding influence in the development of the JOBS program. Governors and state human service administrators played a critical role in support of the JOBS program and the Family Support Act throughout the legislative process and are now responsible for implementing the provisions of the Act. States have a tremendous investment in this program. States are accountable for their actions in this area, not only to the federal government, but to their own legislatures and to their citizens, including above all the clients whom we are committed to serve—the clients who want the opportunity to gain the education, skills, and ability to end their dependence on welfare by obtaining meaningful employment.

States have been actively involved in the regulatory process since the enactment of the Family Support Act. They have been engaged in comprehensive planning for implementation of the JOBS program as well as other provisions of the Act. Most states plan to implement the JOBS program well before the mandatory implementation date of October 1, 1990, including 18 that have indicated that they plan to begin their JOBS program on July 1, 1989.

We will continue to work with HHS throughout the regulatory process and into the design and implementation of state JOBS programs. We are deeply concerned that the proposed regulations seriously limit the ability of states to operate programs that effectively address the needs of clients and the specific economic and labor conditions of the states. Congress intended the new JOBS program to build upon states' successful experience in operating meaningful education, training, and employment programs for AFDC recipients. We hope the final JOBS program and supportive service regulations provide the flexibility to meet the stated goal of the Act—"to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence."

STATEMENT OF THE CHILD WELFARE LEAGUE OF AMERICA, INC.

(SUBMITTED BY DOUGLAS BAIRD, CHIEF EXECUTIVE OFFICER, ASSOCIATED DAY CARE SERVICES OF METROPOLITAN BOSTON)

My name is Douglas Baird, and I am Chief Executive Officer of Associated Day Care Services of Metropolitan Boston, New England's oldest and largest charitable day care agency, and Chair of the Child Welfare League of America's National Task Force on Child Day Care. The Child Welfare League appreciates the opportunity to present testimony on the child care provisions of the Proposed Regulations for implementation The Family Support Act of 1988, Public Law 100-485, issued by the Department of Health and Human Services, Family Support Administration on April 18, 1989. We would like to commend the Chairman and the Subcommittee for holding this oversight hearing on some very important issues affecting America's youngest, poorest, and most vulnerable citizens.

The Child Welfare League is the oldest and largest membership organization of more than 525 child serving agencies and 1,200 affiliates throughout North America, comprised of both public and voluntary providers, serving children, youth, and families in need of adoption, child care, foster care, family support services, parenting skills, teen pregnancy services, residential and group homes, emergency shelter care, and other basic supports. Many of the children served by CWLA member agencies are deprived, neglected, and abused. In other words, we work with some of the most troubled and needy children and families in the country.

Since 1878, Associated Day Care has been serving children from low income families in the Boston area. One hundred years ago the agency served populations of

European immigrants during the settlement house era. Today the agency serves southeast Asian and PanAmerican as well as Black and Hispanic low income families. While the population has changed over the century, the mission remains the same: provision of essential services to allow families to become self- supporting. The agency received the first State contract to provide child care for children of AFDC recipients when that program was instituted in 1968. Today we serve 500 preschool children, ages one month to six years, in two family day care network programs and seven day care centers in public housing sites and multi-lingual, multicultural neighborhoods. The current racial/ethnic composition of families served is: 43.6 percent Hispanic; 29.5 percent Black; 11.9 percent White; 7.1 percent Haitian; 3.4 percent Asian; 2.1 percent West Indian; and 2.4 percent Cape Verdean.

Associated Day Care is proud to have contributed to Massachusetts' significant progress in building a permanent route out of poverty for welfare recipients through the Employment and Training CHOICES (ET) program, a major model for the Federal welfare reform legislation. According to the latest estimates, since ET began in 1983, over 57,000 recipients have been placed in unsubsidized jobs, with over 75 percent still off welfare. ET has saved taxpayers over $280 million through FY 1988 in reduced welfare costs and increased revenue from taxes and social security payments, after deducting all program costs. A major component of this successful program is the provision of day care services to low income families. Concurrent with the implementation of ET, Massachusetts invested heavily in expansion and improvements in child care resources under a Governor's Day Care Partnership Initiative, and the final report concludes that, "The central role played by day care in the success of the State's ET program has made it clear that subsidized day care is a necessary component of any program intended to help welfare recipients with young children become economically self-sufficient. It is equally clear that the subsidy cannot end when the former recipient's income reaches the poverty line, but must be continued on a sliding scale until the parents' income is sufficient to pay the full cost of care."

Much of the impetus for enactment of The Family Support Act of 1988 was derived from the recognition that the world has changed significantly since the Aid to Families with Dependent Children (AFDC) program was enacted in the 1930s, and that it is necessary to take these changes into account if we are to have any hope of affording real and lasting help to needy, dependent children. Indeed times have changed since 1935. The original legislation specified that AFDC was for children with no fathers to support them. Today, two-thirds of all mothers with children younger than 14 are in the work force (U.S. Department of Labor) and many are single heads of households. While the Family Support Act takes these new family patterns into account, the proposed regulations, as they apply to child care for AFDC recipients, do not. There remains an underlying, and we believe unfounded, assumption that AFDC households include large numbers of women not in the official labor force who can provide free day care.

Mr. Chairman, as one of the leading experts on welfare issues, I am sure that you are well aware that the AFDC program is a program for children—to assure basic resources are provided for children who have little or no support—and only secondarily for caretaker parents in their role as caretakers of children. It is my hope that you will convey this understanding to the proper authorities at the Family Support Administration who, in these proposed regulations, appear to be addressing fiscal constraints and the one-third of the AFDC population consisting of adults.

I am here today on behalf of the Child Welfare League to suggest some of the ways in which the proposed regulations should be revised if AFDC is to fulfill its primary responsibility to provide basic care for needy children, and, in fact, if the employment programs are to succeed in moving adult recipients into permanent jobs.

AFDC families are not altogether different from all other families in the population, and many of the findings of the Fortune magazine survey on child care and parents job performance apply to poor families as well as middle class and upper income families: parents who have problems finding child care are much more likely to be absent, come late, leave early, and spend unproductive time at work. The procedures and guidelines States are required to follow in implementing the child care provisions of the Act will have direct consequences on the probabilities that welfare parents will use the JOBS programs to move into self-sufficiency by securing and retaining employment.

In examining the regulatory proposals it is important to remember that mothers of very young children and teen mothers are target populations for this program and many will be required to attend educational activities, regardless of the age of their babies. This means that care will be required for many more infants, a particularly vulnerable population. The Family Support Act is venturing into some new territory, not fully explored in the work program demonstration projects of recent years. In her report on evaluations of State work and welfare initiatives in the 1980s, Judith Gueron, President of the Manpower Demonstration Research Corporation, states that, "An open question concerns the broader implications of an ongoing participation requirement on family formation, the well-being of children, and attitudes toward work," and points out' that, "It is important to note that child care was not a major issue in these programs, since their requirements were mostly short-term and limited mainly to women with school-age children."

Likewise a CWLA Research Department study of services to pregnant and parenting adolescents, published May 11, 1989, finds that 77 percent of member agencies surveyed provide child care as an integral part of services to the teen population.

In our reading of the regulations document, we find substantial contradictions between the proposed regulations and the preamble to the proposed regulations, and between the entire document and the Act. It is our understanding that the preamble has some legal standing, and, more importantly, that the preamble is intended to describe in more detail what is intended in the regulations. Our primary concern is the repeated references to the child care guarantee as a "conditional" guarantee:

FISCAL LIMITATIONS AND THE AVAILABILITY OF "FREE" CHILD CARE

- The Preamble (p. 15666, Part 255—Child Care and Other Work Related Supportive Services During Participation in Employment, Education and Training, Eligibility 255.2 of the Proposed Regulations) states, under *Child Care Guarantee*, that, "The State IV-A agency must guarantee child care for an eligible family if resources are available. The guarantee may be limited by State appropriation ceilings, the available supply of other State, local, and federally-funded services, such as Title services, and the target group priorities."

It is our reading of the statute that, if resources are not available, the parent is exempted from the required JOBS activity and that this is in no way subject to State appropriation ceilings or target group priorities.

The Child Welfare Lease recommends that the Subcommittee insist that the proposed regulations, including the preamble, reflect congressional intent by stating that, if child care resources are not provided under the Act's guarantee, the recipients are exempt from participation requirements, and by striking references that would condition the guarantee on State appropriation ceilings or target group priorities.

- The Preamble (p. 15666 Part 255—Child Care and Others Work Related Supportive Services During Participation in Employment, Education, and Training, Eligibility 255.2 of Proposed Regulations) further states that, "The State IV-A agency is not required to treat child care benefits under this Part of the proposed regulations as an absolute entitlement and to provide all employed recipients and participants in JOBS with child care benefits. Frequently, child care is provided through informal arrangements at no cost. The child care guarantee does not mean that paid child care must be available for every participant."

We find no statutory basis for the first statement, and very little real life basis for the free informal arrangements assumption. Child Welfare League staff spoke with some of the State Social Services Departments last week. On the issue of free informal arrangements, the Colorado Department says there is some free grandmother or neighbor care but the demand far exceeds the supply, and a supply of free care for infants does not exist. A study contracted by the Texas Department indicates long waiting lists for subsidized slots and lack of child care as a major barrier to employment. The Oklahoma Department pays for in-home and relative care as do Minnesota and Massachusetts. In fact, a Massachusetts Office for Children affordability survey indicates that payments for relative care may run as high as $6,000 a year.

We also have a concern that the strong emphasis on informal arrangements gives a dangerous signal with respect to the quality of care and discourages State efforts to improve child care standards and enforcement, in contrast to the statute's emphasis on appropriate, licensed, quality care.

The Child Welfare League recommends that the Subcommittee insist that the proposed regulations, including the preamble, reflect congressional intent by striking the cited references to limited entitlement and free informal arrangements.

LIMITING CHILD CARE TO CHILDREN UNDER AGE 13

The Preamble (p. 15666, *Child Care Guarantee)* proposes to limit the guarantee of child care to those families with dependent children under 13 referencing this as "a reasonable policy consistent with the limits enacted for the Dependent Care Tax

Credit . . . reflecting widely-held views on appropriate governmental participation in expenditures for child care services."

The proposal disadvantages after-school and summer programs for young teens who may be the children most in need of supervision while their parents are absent from home. Given current problems with drugs and teen pregnancy, limiting the programs to those under age 13 seems short sighted as a Federal policy. Localities are probably best equipped to determine care needed for this population who are in school fewer hours per day than the working hours of parents and are out of school in summer and holidays.,

Social Services Departments in New York and Minnesota report that they will be lowering their age limits from 15 to 13 under the new program proposals, despite the fact that they have maintained the age 15 limit in their welfare demonstration programs. Massachusetts, which is already into a more advanced program development stage aiming sub-programs at the harder-to-serve segments of the recipient population, suggests that it would be more productive to leave the child care age limit up to the States and localities.

The Child Welfare League recommends that the Subcommittee insist that the regulations reflect congressional intent to encourage State initiatives by removing the Federal age limit.

MARKET RATES AND THE 75TH PERCENTILE

The Preamble (p. 15668-9, *Allowable Costs and Matching Rates, Local Market Rates)* proscribes that, "The State IV-A agency would have to base the rates on a representative sample of providers . . . and establish local market rates at the 75th percentile."

The Colorado Department sets these rates at a county level with differentials by community and reports that the regulatory proposal of the 75th percentile would significantly disadvantage the supply and clients. Minnesota pays subsidies equivalent to full cost of care, and estimates that the 75 percentile market rate would reduce availability of care. New York State will be reducing its market rate to conform to the new regulation. Texas Title XX providers likewise report problems with this proposal.

The Child Welfare League recommends that the Subcommittee insist that the proposed regulations reflect congressional intent by withdrawing the 75th percentile stipulation, and, instead, encourage States to set local market rates that reflect the full cost of child care necessary to remove this barrier to self-sufficiency.

APPLICATION REQUIREMENTS FOR TRANSITIONAL CHILD CARE

We can find no reference in the statute to a requirement (Preamble, p. 15671; Regulations, Part 256.2) that families moving into the transitional child care category must apply for that benefit in writing. Since the Department has chosen to insert this requirement into the process, we suggest a need for additional procedural requirements to ensure continuity of care for the children, as well as continuity of parents ability to meet work requirement hours. We are troubled by the lack of provision for an immediate transition. If the application remains a requirement, there should be provisions specifying how the family is to be informed and assisted in making the application prior to the change. We suggest that there should also be some requirement that applications be processed in a timely manner to facilitate the transition. This is all the more urgent in view of the reference to the 12 month eligibility period's commencing the day AFDC eligibility ceases, and the provision that there be no retroactive payments.

The Child Welfare League recommends that the Subcommittee review the proposal on written applications as a condition of eligibility for transitional child care and make recommendations to the Department to ensure that such applications do not become barriers to permanent self-sufficiency for low income families.

STATE PLANS, PROPOSED REGULATIONS 255

The Child Welfare League recommends that State plans for supportive services be incorporated within the State JOBS plan, since there is a necessary relationship between plans for child care services and all aspects of the JOBS activities plans, and child care services are an absolutely critical service with respect to whether or not the parent can meet the employment requirement responsibilities.

At 255.1(d) the regulations propose "a description of the priorities to be applied in determining *when* needed child care will be guaranteed for accepting or maintaining employment and for education or training." (emphasis added) Since the child care is mandated for participants, including volunteers and self-initiated programs, it is not clear what is intended to be prioritized. If the State agency determines that there is a shortage of funds and/or child care providers and slots, it would be reasonable for the State agency to establish some priority guidelines with respect to serving target groups first, but this is not a matter of determining when needed child care will be guaranteed. The statute requires that child care be provided to all participating parents.

The Child Welfare League recommends that (at 255.1(e)) State plans be required to "describe procedures" established to ensure that child care meets applicable standards of State and local law and parental access "rather than merely furnish an assurance that such procedures exist."

These are not insignificant components. Conformance with State and local law and parental access have to do with the basic safety of the children in care. Clearly the Congress expressed concern in these areas when mandating a report on the nature and content of State and local child care standards. (Conference Report, pages 162–163: "The State must provide the Secretary with a description of these State and locally determined requirements and guidelines which shall be used by the Secretary to make a report to the Congress on the nature and content of State and local standards for health and safety.")

To end as we began, we urge the Subcommittee to restore the focus of the child care provisions in the Family Support Act implementation in such a way as to assure safe and nurturing care for AFDC's real target population, children in need of basic supports.

STATEMENT OF THE UNITED WAY OF AMERICA

(SUBMITTED BY FREDERICK C. SMITH, FORMER CHAIRMAN AND CEO, HUFFY CORP., DAYTON, OH, AND CHAIRMAN, UNITED WAY OF AMERICA TASK FORCE ON WELFARE REFORM)

I am Frederick C. Smith, retired chairman and chief executive officer of Huffy Corporation in Dayton, Ohio, and am pleased to submit the following statement on behalf of the United Way of America for the Committee's record of the oversight hearing, May 25, on the Department of Health and Human Services' proposed regulations implementing the Job Opportunities and Basic Skills (JOBS) program (Federal Register, April 18, 1989) of the Family Support Act. I am a member of the United Way of America volunteer Public Affairs Committee and serve as the chair of the Committee's task force on welfare reform. In addition, I am chairman of the Board of Directors of Ohio United Way, the state United Way organization, and chairman of Ohio's Job Training Coordinating Council.

In addition to our statement, we are submitting for the record a copy of "Strategies for Self-Reliance: Preventing Dependency and Redesigning the Welfare System," United Way of America's policy statement on welfare reform that includes the principles used to evaluate the proposed regulations.

United Way of America is the national association representing approximately 2,300 independent United Ways located in communities across the country. In 1988, these United Ways raised nearly $2.8 billion for over 37,000 non-profit human service agencies. In fact, United Way is second only to the federal government in funding health and human-care services. But United Ways not only raise and allocate funds, they also work with agencies, government entities, and the private sector to identify community problems and needs and develop ways to address them.

Across the nation, United Way-supported agencies are engaged in planning, funding, and delivering many of the services that successful JOBS programs will depend on—child care and child development, job training, job search assistance and placement, literacy training, remedial reading, dropout prevention, translation and cultural transition, and single parent family development. The list is long and the services are as varied as the communities they were developed to serve.

Typically, these programs and services are developed in processes similar to that called for in the Family Support Act, by United Ways consulting and coordinating with public and private communities. United Way's strong ties to the business community and its ability to bring diverse groups together can be a key to states' successful implementation of the Act.

United Way of America supports a welfare system that instills self-reliance and independence in recipients and that focuses resources on eliminating barriers to self-sufficiency and preventing long-term dependency.

To help build such a system, United Ways need to have a strong role in developing and supporting JOBS programs and services that can reduce barriers to employment.

We also recognize that government responsibility alone is not sufficient, that United Ways need to continue generating services and support from communities and the private sector.

Our statement addresses two areas of concern to United Ways: issues of public input and coordination, and obstacles to participation in the JOBS program that are posed by the child care provisions, participation requirements, and treatment of voluntary participants.

The proposed rules make adequate provision for consultation and coordination, and for public input in the development and operation of the state plan, basically following the statute.

We are concerned, however, about provisions that could hamper reaching the goals of the Family Support Act. These include the limit on child care market rates, the failure to assure child care for voluntary participants, and criteria for participation that set a 20-hours-per-week minimum and require that on-the-job training be full time in order to be counted.

The combined effect of these troublesome provisions is that JOBS program resources would likely be focused on the most job-ready, to the exclusion of parents with very young children who need comprehensive employment preparation and services.

ISSUES ADEQUATELY ADDRESSED

In general, the issues affecting roles for the voluntary sector are adequately addressed, and can be strengthened by minor changes.

Public Input and Voluntary Sector Roles

The regulations make provision for public input in the development of the JOBS program, and in its ongoing operation, in accordance with the law.

United Ways support retention of the provisions for consultation, coordination, and contracting that will assure appropriate roles for the voluntary sector in planning, establishing, and operating JOBS programs.

We believe these provisions can be strengthened by adding in Final Rules the terms "non-profit organizations" and "non-profit service providers" to the list of entities specified in the sections on consultation, coordination, and contracting.

Even though United Ways are defined as community-based organizations under the law, specific mention of non-profits in the appropriate sections will clarify that the role of voluntary organizations in JOBS programs is not limited to community-based organizations as commonly identified and non-profit child care organizations.

State Plan Development

We view the opportunity to participate in development of the State JOBS Plan and Supportive Services Plan as critical. United Ways, can play an important role in the formulation of the states decisions about optional services to be provided, target groups served, and statewideness of programs and services.

The required consultation and coordination is to include identifying existing resources, preventing duplication, and assuring that services are available to participants. These are typical United Way-supported activities, which can be helpful in the implementation and ongoing operation of the program.

Contracting

United Ways support the contracting of JOBS services and administration. We suggest that the term "non-profit service providers" be added to the list of examples mentioned in the regulations, to encourage states to contract with a broad range of voluntary agencies.

As intended by Congress, states are given latitude to contract the full range of services that will be needed for effective JOBS programs. Administrative functions also may be contracted, except for those requiring discretionary judgment about client eligibility and sanctions.

Case Management and Client Contract

United Ways support use of a strong case management approach and individualized service plans that define the obligations of both parties. These are essential mechanisms for coordinating the comprehensive services and resources needed to break the cycle of long-term dependency.

Since the law encourages but does not mandate these casework practices, the regulations also make it optional for the states and offer only sketchy guidelines.

United Ways and local agencies will seek a stronger commitment to the case management approach during development of the state plan.

ISSUES OF CONTINUING CONCERN

The issues of concern are those that present obstacles to participation in the JOBS program, or that create administrative barriers and disincentives for states to serve the most needy parents: child care access, participation hours required, and treatment of voluntary participants.

Separately, these provisions pose barriers to participation or completion of JOBS activities. In combination, they will effectively exclude many parents from participation in the JOBS program and deny access to resources needed to participate.

Child Care

The failure of the regulations to carry out the concept of guaranteed child care is a serious concern. The provisions make it unlikely that volunteers and the most difficult to serve parents can be assured of child care.

Providing child care is central to the entire JOBS program. Lack of access to dependable, affordable child care can be the single greatest barrier to employment. Unless the child care is available and provided, there can be little hope that long-term welfare recipients with young children will make the transition to self-support.

We recommend that the following issues be addressed in the Final Rule:

Guaranteed Child Care. The regulations should require states to provide child care for participants, including voluntary participants, as provided in the Family Support Act.

While the new law guarantees child care for both mandatory and voluntary participants in the JOBS program, the regulations permit states to guarantee it only if resources are available. Thus, available funds may permit states to exclude child care for volunteers in order to serve only those who are mandated to participate.

Transitional Assistance. Continuity of child care payments should be built into the system. Application procedures required for transitional child care may create gaps in eligibility and thus make job retention difficult.

The regulations require that parents who leave AFDC because of increased earnings, and are entitled to 12 months of additional child care payments, must undergo a separate application process for the transitional benefit. If they fail to apply promptly, the eligibility period is reduced by the amount of the delay.

Instead of risking disruption to clients, states should be permitted to establish systems that assure continuity of the child care payment, during conversion from AFDC to transitional child care eligibility. Similar mechanisms are used for Medicaid low-income eligibility, when families leave welfare and medical assistance is "decoupled" from AFDC.

Market Rate. States should be permitted to pay the full market rate, with costs reimbursable as provided in the law. In the proposed rules, reimbursement to states would be limited to 75% of the community market rate for child care.

Inability to pay caregivers the full market rate will limit the number of child care providers available to meet the needs of JOBS program participants. It may therefore force recipients to rely on less regular child care arrangements, which could jeopardize their attendance at JOBS program activities.

Child Care Resources. The proposed regulations would disallow federal reimbursement for provider recruitment and resource development. Under current law, these activities are allowable administrative costs, reimbursable at 50%.

This disincentive should be eliminated. The prohibition on federal matching funds would limit states' ability to expand child care resources—an expansion that is critical to creating a successful JOBS program.

Participation

The 20-hours minimum weekly participation requirement should be dropped. State JOBS programs should be permitted to monitor participation by clients in accordance with existing systems and law, and not be required to develop tracking systems that would divert funds away from services.

By imposing definitions of participation that go beyond the law's provisions, the regulations may encourage "creaming" and foreclose opportunities for participation by recipients with greater need for employment assistance.

The proposed regulations require client activity in JOBS to consist of at least 20 hours per week, a level that state welfare administrators of existing jobs programs say is unrealistic and impossible to document and track. If implemented, the regulation could cause JOBS programs to accept only persons who are more job-ready, or to emphasize hours over content in selecting service providers.

Time spent in orientation and assessment, each essential components of the JOBS program, would not count as participation, so states would have to meet their participation rate quota from recipients who have completed that phase. This will encourage emphasis on numbers of participants, over quality of individual employability plans.

Voluntary Participants

Volunteers in the target groups (long-term recipients, recipients under age 24, and recipients with older children who will lose their eligibility within two years) should be given priority for participation and access to resources, including child care, as provided in the Family Support Act.

While the law requires that non-mandatory applicants be allowed to participate in JOBS on a voluntary basis, and assigns priority to target group volunteers, the regulations require only that states "give consideration" to volunteers, if the program is available in their area, and state resources "otherwise permit."

The regulations should be revised to encourage states to serve voluntary participants.

In closing, I would like to thank the Committee for its oversight efforts and for giving us the opportunity to share our views. Like the Committee, United Way of America, and the United Way system, is committed to developing a welfare system that increases the chances for recipients to break the cycle of dependency and become self-sufficient. If we can be of further assistance in meeting this shared goal, please do not hesitate to contact us.

Enclosure.

UNITED WAY OF AMERICA STRATEGIES FOR SELF-RELIANCE: PREVENTING DEPENDENCY AND REDESIGNING THE WELFARE SYSTEM

EXECUTIVE SUMMARY

The goal of this nation's welfare program should be to build self-reliance and independence into the system for those able to work. Income assistance must be tied to work requirements and services to help overcome barriers to employment. Achieving results requires a sound federal framework which facilitates effective state and local service programs. United Ways must work at all levels of government to support creative, cost effective, and results-oriented policies and programs. While government bears primary responsibility for income assistance to the poor, government alone cannot transform the system. United Ways need to help develop services to reduce barriers to employment—job training and placement, day care, illiteracy, school dropouts, drug and alcohol abuse, teen pregnancy, child development, prenatal care. Private sector initiatives are needed, as well.

United Way of America supports the following elements for redesigning our welfare system and services to the poor.

Work and Training. The welfare program should help people move into the labor force through job training, placement, and day care.

Program Funds Follow Mandates. Passing along responsibility to another level of government, to private and/or to voluntary sectors without support is not a solution.

Elimination of Disincentives to Work. Elements in the current system encourage people to choose welfare instead of working. People are often worse off if they take jobs.

Transitional Health Care Benefits. This is a major disincentive to work. Welfare recipients lose government health care benefits when they take jobs. Taking a job means putting their children's health at risk.

Human Services. Better services should be developed to break down barriers to employment. We need to do more in the short and long term to address day care, illiteracy, teen pregnancy, child development and other needs. Services should not be duplicated. They must be built around existing community based services, particularly voluntary services.

Contract with Recipients. Obligations of government and recipients should be clear. Both should be held accountable.

Feedback/Evaluation. Results should be measurable. Program evaluation, including client feedback, is needed.

State/Local Creativity and Flexibility. State and local decision making in designing job training and human service programs is needed.

Participation by Two Parent Families. These families are not eligible in many states for welfare, promoting family breakups to become eligible.

Adequate Care for Those Unable to Work. The elderly, disabled and single parents of very young children should be given adequate income.

UNITED WAY OF AMERICA POLICY STATEMENT ON WELFARE REFORM

United Way has a one hundred year history of addressing human care needs and problems. First formed in Denver, Colorado in 1887 as a response to the needs created by the gold rush and the vast westward migration, it now exists in over 2,300 communities across the country.

Since the establishment of government income assistance programs in the Great Depression, United Way has maintained this tradition of caring for people who slip through the social safety net that the government has erected. United Way has also formed partnerships with government to accomplish this goal and to more effectively meet human care needs.

Today, United Way is concerned that these social safety net programs are not working effectively. Our nation seems to be allowing the development of an underclass of people without the skills, the resources, or the self confidence to overcome barriers to employment and become full, productive participants in the American dream. Society must do a better job of helping all our fellow citizens to become productively employed to ensure continued economic development.

To reverse this trend, our nation must restructure the welfare system now and replace the present system of income support with a system of incentives and support for employment of those participants able to work. Achieving this goal requires, among other changes, an increased focus on human services.

Without this kind of help, long-term welfare recipients and people who may become welfare-dependent cannot surmount the obstacles that may be keeping them out of the work force.

United Way's history of human care service has given it broad expertise in helping people to become employable by generating and supporting services such as:

- Child and adult day care;
- Employment and employability training, job search and placement;
- Alcohol and drug abuse treatment;
- Youth character development, intervention for troubled youths, programs for school drop-outs, delinquency prevention;
- Teen pregnancy and parenting;
- Counseling for mental health or family problems.

In local communities United Way not only raises money for these and other services ($2.78 billion in 1989) but also, and more significantly, marshal ls community support to find new ways to do these tasks better through leadership in community problem solving. Some examples include coordinating services, eliminating service duplication, and stimulating private sector initiatives. United Way has worked in partnership with government at all levels to assess human care needs and services available, plan and fund services, and address community problems. From this base of knowledge and expertise, United Way supports the following principles for welfare reform.

PRINCIPLES

- Any program mandates flowing to lower levels of government ought to be accompanied by adequate funding. The experience with deinstitutionalization of the mentally ill to community-based care and the resulting homelessness among the mentally ill shows the catastrophic impact of not following this policy. Most of the money saved in our institutions was not shifted to communities for alternative care. Few new programs were created to replace the old approach.
- The goal of welfare reform should be development of a system which will sustain economic growth by helping people to become employed in productive, useful jobs—not make-work.
- To encourage and assist welfare recipients to become self reliant, a welfare reform plan must:
  —Avoid building into the system disincentives to self reliance;
  —Develop a strong human services and case management system to help people overcome barriers to their employment;
  —Extend transitional health care benefits to recipients moving into the work force;
  —Provide for a contract between the recipient and the administering agency to develop an individualized service plan and define the obligations of both parties;
  —Build in a feedback and evaluation component to assess the effectiveness of the welfare reform program in helping people to achieve self reliance.

- Those who are not able to work and become self supporting should receive an adequate level of financial support.
- An effective welfare reform plan must include a comprehensive human service element which goes far beyond job placement services. This piece is necessary to help people avoid welfare dependency and to assist long-term welfare recipients to overcome the obstacles that may have kept them out of the work force.
- The best human service systems for people in need are achieved through
  —Funding responsibilities may be shared within such partnerships, multiplying and better focusing the resources of each partner.
  —The voluntary sector can contribute matching funds or in-kind contributions to partnership efforts.
- The human services provided through welfare reform must be built upon the foundation of existing services and service systems in our local communities. Voluntary agencies already have much of this infrastructure in place.
  —Voluntary agencies now provide many services needed to help people become employable.
  —Voluntary organizations also have expertise in needs assessment and service coördination which ought to be used in planning and establishing the human service component.
- Welfare reform must encourage creativity and flexibility at both state and local levels in the implementation of work, education, and human service programs in order to permit programs to be tailored to unique social and economic factors in various parts of the country.
  —Local decision-making is especially critical. Local public and voluntary sector policy makers know their community's needs and their institutional resources.
  —In most communities, public and voluntary sectors have come together on an ongoing basis to address some community problems jointly. Welfare reform proposals should encourage these broad-based approaches as a means of stimulating new ideas.

STATEMENT OF THE YOUNG PARENTS PROGRAM OF RHODE ISLAND

(SUBMITTED BY AGNES R. CURTIS, FOUNDER-DIRECTOR)

As an interested organization, I am forwarding the following comments regarding the Family Support Act of 1988.

My initial response is to compliment Congress for its commitment to a segment of the population that, for many years, has received financial support but frequently not the emotional and social support to move to self sufficiency. The Act appears to include these societal supports.

Serious concerns about the scope of the plan, however, must be noted. Leading authorities on the needs of disadvantaged people stress the importance of personal, comprehensive and first class service. Granted, the monetary amount designated is understandably limited by economic conditions. Since the money is limited and the number of recipients is great, it would be much more beneficial to concentrate on a small segment within the AFDC population. How much better to have a small success than a large failure.

As the plan is now written, numerous case workers will be needed, adding another layer of bureaucracy within an existing complicated system. Understaffing will occur, for example, in Rhode Island. There will be 30 new case managers to assist 5000 AFDC recipients which means one case manager for every 166.67 AFDC recipients. Also, it is well recognized that many of the clients have only basic educational skills and limited life skills. Under these circumstances, in no way can the written plan translate to the reality of the situation.

In addition, two questions:

1. As one of the small organizations that will provide the direct service, why is a new identification number required when a client's social security number has been effective as a case number in the past?

2. Will the organizations be allowed to participate in streamlining the required report documents?

In conclusion, I compliment Congress on this much needed reform. As a grassroots organization, I ask that these comments be given serious consideration.

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